

12-1-1982

Latin American Tax Law Update

Mary Mercedes Marti

Follow this and additional works at: <http://repository.law.miami.edu/umialr>

Recommended Citation

Mary Mercedes Marti, *Latin American Tax Law Update*, 13 U. Miami Inter-Am. L. Rev. 486 (1981)
Available at: <http://repository.law.miami.edu/umialr/vol13/iss3/9>

This Report is brought to you for free and open access by Institutional Repository. It has been accepted for inclusion in University of Miami Inter-American Law Review by an authorized administrator of Institutional Repository. For more information, please contact library@law.miami.edu.

Latin American Tax Law Update: 1980

MARY MERCEDES MARTI*

This study reviews the tax developments in eighteen countries of Latin America during the calendar year 1980. Pertinent legislation and rulings, as well as important judicial decisions, are highlighted in order to provide maximum coverage of the following areas: fiscal policy; promotion of economic development; inflation-generated measures; social security systems; tax administration; and special situations.

ARGENTINA

One of the major changes in the tax policy area has been the overhaul of the added-value tax. In an effort to simplify the tax system, the added value tax has been overhauled, while a score of minor taxes has been repealed. The tax rate has been fixed at 25% of the selling price, although the executive branch has been authorized to reduce such rate. Under such authority, the rate has been reduced to 20% effective October 6, 1980.¹ Among the repealed levies are the emergency tax on farm products, contribution on fish sold, payroll tax for technical training, tax on admissions to movie theatres, and many special taxes on transactions involving various farm and cattle products.

Industrial establishments which finance educational programs will be entitled to a tax credit according to a new law. The credit shall amount to the cost of the program, up to eight-per-thousand of the payroll, and shall be represented by tax credit certificates. These certificates may be used to pay any of the taxes administered by the General Tax Bureau. No deduction will be allowed for the amounts eligible for the credit in computing income tax. The new law shall

* Director and President of Inter-American Tax Research, Ltd., New York, N.Y.; L.L.B., National University of La Plata, Argentina; LL.M., Harvard University; J.D., New York University. Dr. Marti has also been associated with Coopers & Lybrand and with W.R. Grace & Co. She is a member of the Argentine and New York State Bars and has acted as Lecturer and Coordinator at American Management Association, Council of the Americas and World Trade Seminars.

1. Law 22294 of October 3, 1980.

enter into effect upon the repeal of the tax for technical education. Such repeal took effect October 6, 1980.²

Manufacturing establishments and construction companies are required to pay a two-per-thousand payroll tax for technical education of workers; that tax is reduced by the cost of educational programs financed directly by such taxpayers. With the proposed elimination of the technical education tax, the establishments would have lost the incentive to finance technical education programs directly.

The excise tax on cigarettes which was to be levied at a 66.5% rate beginning January 1, 1981 has been increased to 70% from that date.³ The tax on the sale of certain farm products, which had expired on December 31, 1979 had been reinstated from February 1, 1980 through December 31, 1980.⁴ A tax applied at a 4% rate on the selling price of cotton, grains, eggs, cattle, fruits, tea, tobacco, poultry and matetea was created.⁵ Farmers were required to pay this tax until December 31, 1979. Fifty percent of this tax is creditable against the income tax. Under a new law regulating the broadcasting industry, television and radio stations are required to pay a tax on their gross billings. The rate ranges from 8% for television stations located in the Federal District, to .75% for small radio stations located outside the Federal District. The current tax on gross billings has been repealed.⁶

Legislation introducing substantial amendments to the Mining Code entered into effect 120 days after August 1, 1980. A new system of contracts for the exploration and exploitation of mineral deposits is provided for. In lieu of extractive royalties, contractors are to remit to the government, a share in net profits at the rate fixed in each contract. During the first five years of a concession, no tax shall be levied on the exploitation and marketing of mining output. This exemption does not include stamp tax and fees for services rendered. Payment of the tax on corporate capital accrued between the execution of the contract and the start of exploitation of a deposit may be deferred for the period fixed in the contract.⁷

Two provisions affecting the undertaking by government-owned companies, of the onus of the tax levied on contractors, have been

2. Law 22317 of October 31, 1980.

3. Decree 1838 of September 8, 1980.

4. Law 22155 of February 1, 1980.

5. Law 21399 of September 2, 1976.

6. Law 22285 of September 15, 1980.

7. Law 22259 of July 28, 1980.

passed. The prohibition of undertaking such onus no longer applies to foreign loans. Pursuant to the regulations, such prohibition does not apply to added-value, excise and gross receipts taxes for which a contractor is legally liable.⁸

Ransom money paid to kidnappers of an officer of a corporation is deductible not as an ordinary and necessary business expense to obtain and maintain corporate income, nor as an expense for the welfare of employees, but rather as a casualty loss.⁹

First sale of shellfish or fish for domestic consumption or for export will be subject to a tax not in excess of 2.5 % of the selling price. Until the executive branch fixes the tax rate, the rate shall be 2.35 %.¹⁰ Where the owner of the catch processes it, the tax is payable on the basis of the selling price of the catch for domestic consumption or for export.

Several measures were passed for the promotion of economic development. Exercising the authority granted it by the Law for the Promotion of Manufacturing, the executive branch has expanded the benefits granted for the promotion of the northwest region by awarding added-value tax exemption for five years to sales made within Catamarca Province.¹¹

A provision of the Income Tax Law allowing the deduction from taxable income of funds invested in increasing productivity of low-yield farmland has been replaced with a special incentive system. Investments by farmers, or by any taxpayer, in qualified farming enterprises are deductible from gross income within the limits fixed by the new system. Gains from such increase will also be exempt. The sale of the land or the transfer of the quotas or shares within three years from their tax free acquisition will terminate the exemption, trigger the tax waived and be subject to fines.¹² The increase in profits of an existing farming enterprise attributable to new investments is deemed to be an amount equivalent to 7 % of such investments. The executive branch is ordered to fix, by regulations, the maximum amount allowed as tax-free investment in each eligible area of the country.

The deadline for investments in construction of low-cost housing entitled to income tax benefits has been extended by one year.¹³ In

8. Law 22157 of February 5, 1980; Decree 261 of January 31, 1980.

9. *In re Roque Vassalli S.A.*, Federal Court of Appeals of Rosario, June 2, 1980.

10. Law 22107 of November 15, 1979.

11. Decree 2046 of September 24, 1980.

12. Law 22211 of April 23, 1980.

13. Law 22214 of April 28, 1980.

order to enjoy the income, net worth and occasional gains tax benefits granted by such law, taxpayers must have claimed them no later than December 31, 1980, and investments in construction must have been made no later than December 31, 1981.

Low-cost housing financed by the National Mortgage Bank has been granted several tax benefits. No real property tax will apply for at least five years after the loan is granted. The contract documenting the loan will be free from stamp tax and building contracts will be exempt from the added-value tax.¹⁴ The Secretary of State for Urban Development and Housing is charged with setting forth the requirements of housing to be treated as "low-cost."

Exercising the authority vested in it by the law for the protection of national production, the executive branch has revised the tax benefits enjoyed by companies established in Southern Patagonia. A rebate on exports from the area, of up to 20% of their value, is recognized for ten years from the start of operations of a plant.¹⁵

The impact of inflation on stamp tax rules has been construed by the Tax Court. In a five to four decision of the Tax Court, it has been held that invoices and documents issued pursuant to indexation clauses in contracts already executed and taxed, are not subject to further payment of stamp tax.¹⁶ Pursuant to the Stamp Tax Law, documents, the value of which is uncertain, are to be taxed on the future value as estimated at the time of execution. Such payment is final. However, documents in which a value higher than that estimated is shown, shall be subject to stamp tax on the amount of the increase. Five Justices argued that the higher value resulting from stipulations to offset inflation is not an increase of value of the original contract. Four Justices argued that the stamp tax applies to instruments, regardless of their economic value, and where stipulations to offset inflation are contained in contracts, the value of the contract on which tax was paid is commensurate with the eventual adjustment.

Regarding social security provisions, it bears noting that employer contributions to the social security system have been eliminated starting with the payroll of October 1, 1980. Employer contributions to the social security system have been eliminated beginning in the month of October 1980. In their place, an added value tax has been levied on a general basis. Revenue-sharing of the added-value tax with

14. Law 22232 of May 29, 1980.

15. Decree 1188 of June 16, 1980.

16. *In re Fiat Concord S.A.C.*, Tax Court, October 18, 1979.

the Provinces has been revised to deduct the amounts necessary to replace the eliminated employer contributions.¹⁷

A new law has superseded the system of workers' social welfare associations. Under the new system, each association is to become an independent legal entity. They will be financed by an employer contribution equivalent to 4.5% of the payroll and an employee contribution equivalent to 3% of their salary.¹⁸

Regarding tax administration revisions, the National Bureau of Federal Fiscal Policy has been terminated with the repeal of the law which created it.¹⁹ In order to benefit from the special tax treatment applicable to corporate reorganizations, the surviving company must notify such reorganization to the Income Tax Bureau within 180 calendar days from the commencement of operations by such surviving company.²⁰

To prevent tax evasion, an economic unit may only be imputed by the Fisc in the event of a corporate reorganization. It may not be invoked by taxpayers to file consolidated tax returns.²¹ The economic unit is not treated as a taxpayer by the Tax Procedure Law. Therefore a group of affiliated companies subject to common control is not authorized to file a consolidated return, thus ignoring the independent nature of each of the various legal entities.

In the special situations area, the highlight is a relaxation of the foreign investment rules. Restrictions on foreign investment have been relaxed and rules of procedure simplified, effective April 25, 1980. The executive branch has been authorized to reduce the rate of the tax on remittances abroad of profits exceeding the 12% ratio between income and registered capital.²² Under the amendments, prior authorization for certain transactions have been eliminated and the procedure for registration of investments simplified. A Treaty to Avoid Double Taxation and Prevent Tax Evasion, signed with France on April 4, 1979, has been approved.²³ The treaty is comprised of an Agreement and an Annexed Protocol, both signed in Buenos Aires, Argentina, on April 4, 1979, and a Reversal Note amending article 29 of the Agreement, signed on October 31, 1979.

17. Law 22293 of September 30, 1980.

18. Law 22269 of August 15, 1980.

19. Law 22138 of January 11, 1980.

20. General Resolution 2245 of April 2, 1980.

21. Rev. Rul. 45 of December 4, 1979.

22. Law 22208 of April 11, 1980.

23. Law 22357 of December 19, 1980.

Subject to proof of reciprocity, foreign commercial airlines will be exempt from customs duties and fees levied on documentation connected with their operations in Argentina.²⁴ Only airlines authorized to operate regularly within Argentina are allowed the exemption provided for in the present law.

BOLIVIA

Very important and numerous changes occurred in the tax policy area. Minerals exported or sold to domestic refineries are subject to a new scale of royalties. The royalty is to be computed on the presumptive profit for tin, wolfram, antimony, copper, lead and zinc, and on the official value for silver, bismuth and others. The tax is payable in lieu of all other taxes on exportation, income or sales. The 15% export tax has been repealed as well as the reduction of royalties for increase in exports, and the suspension of taxes on exports of zinc, lead and antimony.²⁵ The royalty tax imposed on exports of tin has been reduced for tin of lesser quality. The reduction ranges from 5% to 50% of the royalty tax otherwise payable under current legislation.²⁶ The presumptive production cost of exported minerals on the basis of which taxable income is presumed, has been increased. The minerals affected are tin, wolfram, antimony, copper, lead and zinc.

Exercising the power vested in it by the Tax on Income of Enterprises Law, the executive branch has authorized all enterprises to perform a technical revaluation of their fixed assets by paying a 2% tax on the value increase.²⁷ The revaluation shall have no effect in computing depreciation allowance for income tax purposes, or cost of transferred revalued assets. The increase in book value must be capitalized; the capitalization is free from all taxes except stamp tax. Individual shareholders are not taxed on the stock dividends received because of this capitalization.²⁸ New legislation authorizes legal entities to revalue fixed assets and liabilities entered on the books as of December 31, 1979 if such assets have been acquired or such liabilities incurred in foreign currency. The adjustment is to be entered in a foreign exchange gains and losses account. Should the balance of that account be a gain, the balance is taxable at the 30% rate. Should the

24. Law 22198 of March 17, 1980.

25. Supreme Decree 17248 of March 5, 1980.

26. Supreme Decree 17551 of August 12, 1980.

27. Supreme Decree 17934 of January 9, 1981.

28. Supreme Decree 17240 of March 3, 1980.

balance be a loss, such balance is to be treated as prescribed in the Enterprises Income Tax Law.²⁹

The rate of the annual tax on bank loans has been fixed at 3%. Loans to the productive sector are exempt. The 1% annual tax on all credit transactions by banks on behalf of state universities is maintained.³⁰ The tax applies to every loan made to business entities or to individuals and whether the proceeds are paid in national or in foreign currency. The 1% tax on all credit transactions by banks on behalf of state universities shall apply according to a new law.³¹

All existing taxes on production, importation or consumption of beer, especially the single excise tax applied on the manufacturers price and the additional 10% tax computed on the price paid by distributors including the single excise tax, have been repealed as of October 1, 1980. In their stead, manufacturers shall pay a 50% tax on the FOB price, which may not be below ten pesos for a 660-cc bottle.³²

The import duty tariff has been revised by creating a new item for certain medical supplies which otherwise would be taxed as household goods.³³ Cushions are taxed as household goods under item 94.04 of the tariff. A subdivision has been created for cushions used in medicine or for therapeutical purposes. They are exempt from specific and additional import duties levied on all other cushions.

A new tariff for consular fees entered into effect on April 1, 1980. The fees are expressed in United States dollars and are fixed, ranging from five dollars to 100 dollars. A surcharge equivalent to 2% ad valorem applies to the fee for legalizing commercial invoices.³⁴ The new statute contains several rules of procedure to be followed by Consulates. Domestic manufacturers have been benefited by lowering import duties on certain chemicals, paper and electric machines. To discourage illegal entry of motor vehicles, the duty on all vehicles and on their replacement parts have been lowered. Mining, oil and construction companies may import used machinery and used whole plants.³⁵

29. Supreme Decree 17310 of April 1, 1980.

30. Supreme Decree 17126 of November 30, 1979.

31. Supreme Decree 17177 of January 15, 1980.

32. Supreme Decree 17693 of October 9, 1980.

33. Supreme Decree 17348 of April 21, 1980.

34. Supreme Decree 17239 of March 3, 1980.

35. Supreme Decree 17709 of October 15, 1980.

Promotion of economic development has been focused upon mining, manufacturing and other activities. New investments in mining are encouraged by legislation amending the Investment Promotion Law. Such investments will be granted a 40 % reduction of royalty tax on mineral exports. The reduction shall be discontinued when it reaches an aggregate amount equivalent to 40 % of the investment. The reduction shall not exceed 70 % of the royalty tax attributable to the output increase originating in the project.³⁶ The basis for computing the increase in output is the average production for the last five years, or the production of the last year, whichever is the highest.

Manufacturers have been given a two-fold benefit by reducing the import duty on machinery and supplies utilized by them and by increasing the import duty on products competing with those manufactured by them. No importation of used machinery, or even used whole plants will be authorized.³⁷ Among the assets to be imported at the new lower rate are refrigeration equipment, iron or steel plates, paper and cardboard containers, trucks, etc.

In an attempt to save liquid combustibles, manufacturers are encouraged to use natural gas as a combustible. To this effect, they may import free from duty, the appropriate equipment. The benefit will apply until May 26, 1982.³⁸ The benefit applies to ad valorem and additional duties and to the additional surcharge. Certain fees and contributions amounting to 7.5 % of an import's value are not included in the exemption. Equipment, as well as replacement parts and accessories, are covered by the new decree. In accordance with benefits to non-traditional exports contained in current legislation, exports of wool handicraft have been entitled, for four months, to an additional tax credit equivalent to 10 % of the value of their exports to the European Economic Community.³⁹ The European Economic Community removed Bolivian wool handicraft from the Generalized System of Preferences, resulting in an 18 % import duty thereon.

Concerning social security, a social program for the welfare of workers has been outlined. In the meantime, employers are required to maintain the level of employment and salaries under current legislation.⁴⁰ The social program is concerned with minimum "vital" salaries, employment guarantee, technical training, social security, normal operation of unions and employers associations, and housing.

36. Supreme Decree 17553 of August 12, 1980.

37. Supreme Decree 17261 of March 5, 1980.

38. Supreme Decree 17424 of May 26, 1980.

39. Supreme Decree 17484 of June 23, 1980.

40. Decree-Law 17610 of September 17, 1980.

Tax administration changes include the creation of a new agency. With a view to controlling and improving administration of taxes, a Superintendency for Tax Administration has been created under the Minister of Finances. The new entity is to supervise tax collection by the Internal Revenue Service, Customs House, In-bond Warehouse Bureau, Consular Service and other entities collecting taxes for the General National Treasury.⁴¹ Among the powers of the new Superintendency are to supervise collection of taxes and appropriation of revenues, to instruct collecting agencies to set revenue goals, to suggest changes in the administration of taxes and to carry inspections of tax administration agencies.

Beer brewers are now required to pay to the Treasury the single excise tax on beer, the additional 10 % tax on the selling price of beer and the 3 % withheld as an estimated income tax payable by distributors of beer, weekly rather than monthly.⁴² In order to participate in biddings, consulting firms are required to submit tax clearance certificates. The requirement has been temporarily suspended for foreign consulting firms because they were not registered in Bolivian Tax Bureaus.⁴³

BRAZIL

Tax policy revisions affect almost every tax levied by the Union, in addition to the creation of new taxes and a new consolidation of the Income Tax Law. Exercising the authority granted it by the Federal Constitution, the executive branch has approved new Rules for the collection and administration of the tax on income. The Rules consolidate legislation on the subject in force as of December 4, 1980, including matters which had been the subject of revenue rulings. Among them are rulings relating to computation of the excess profits tax on remittances abroad. They became effective on December 5, 1980.⁴⁴

Individuals who have derived more than 4,000,000 cruzeiros of exempt income in the taxable year 1979, not taxable or only taxable at the source, are required to pay 10 % on the excess over such amount. The funds will be retained by the Central Bank until July 1982 when they will be returned in ten monthly installments with 6 % interest but not adjusted for inflation.⁴⁵ The new loan is payable in ten monthly

41. Supreme Decree 17265 of March 5, 1980.

42. Supreme Decree 17459 of June 12, 1980.

43. Supreme Decree 17491 of June 26, 1980.

44. Decree 85450 of December 4, 1980.

45. Decree-Law 1782 of April 16, 1980.

installments beginning July 1, 1980. The compulsory loan has been established for the purpose of absorbing temporarily purchasing power.

From June 10, 1980, dividends distributed to Brazilian legal entities are subject to withholding at a rate of 15%. It is to be offset by the tax to be withheld upon distribution to individuals or legal entities of profits comprised by such dividends. Dividends paid to resident individuals are subject to 25% withholding, except if distributed by "open capital" corporations or noncommercial professional associations, in which case the withholding rate is 15%; current exemptions and limitations on this withholding have been repealed. The 10% of the taxable gain from sale of real property allowed for each year that it has been held, has been reduced to 5%. Computation, payment and refund of the compulsory loan are governed by new provisions.⁴⁶

Exercising the authority granted it by the Tax Code, the executive branch has increased the rates of the tax on loans and on insurance premiums and has established the tax rates for foreign exchange purchases to import goods and services, and a tax on transactions involving securities. Implementing such changes, the Central Bank has fixed the following rates on the value of the respective transaction: loans of 365-day term or over, 6.9%; loans below 365 days, 0.6%; exchange operations for imports until August 31, 1980, 15%; exchange operations for imports from September 1, 1980, 10%; life and accident insurance premiums paid each month, 2%; premiums for insurance of property, 4%; purchase and sale of securities and futures, 1%; reinsurance, farm loans and operations by government agencies and cooperative associations, 0%. The new taxes and tax rates entered into effect on April 22, 1980.⁴⁷ The rates fixed by the Resolution follow those of the Decree-Law except for the rate on loans, which the Decree-Law had fixed at 0.5% per month for any loan or credit line, the rate on exchange transactions which was 15% without any time limitation, and the rate for transactions involving securities which had been fixed at 10%.

Effective January 1, 1981, the rate of the financial operations tax have been revised. Pursuant to the increase of the statutory rate for the tax on purchase of foreign exchange for the importation of goods and services from 15% to 25%, the Central Bank has changed the

46. Decree-Law 1790 of June 9, 1980.

47. Decree-Law 1783 and Resolution 610, both of April 18, 1980.

current 10% rate to 25%, except imports to Manaus, for which the rate shall be 15%. The 1% tax rate on the purchase of securities and futures has been eliminated.⁴⁸

A new progressive rate for the withholding of income on salaried income of individuals and another for the withholding of income tax of fees paid or credited to individuals by legal entities has been in effect since January 1, 1981. From that same date, remittances abroad in payment of the rights to broadcast within Brazil, sports events in which Brazil participates, are subject to a 20% withholding rate.

Gains from the sale of property by individuals remains taxable on the excess over 4,000,000 cruzeiros. Withholding rate tables and instructions have been issued by the Secretary of Federal Revenue.⁴⁹ Withholding rates on new monthly salary income range from 12% to 35%, with the first 30,000 cruzeiros exempt. Those on gross monthly fees range from 10% to 35%, with the first 10,000 cruzeiros exempt. According to the Ruling Instruction, in determining net income from employment, the following deductions are allowed: 3,000 cruzeiros per dependent, contributions to pension funds, union dues, alimony, expenses incurred in collecting income and traveling expenses of traveling salesmen.

Income tax benefits granted to individuals for investment in certain promoted activities and funds have been revised beginning January 1, 1981. The executive branch has been authorized to require, beginning January 1, 1982, that the investor matches the invested tax money with his own funds. Inter-company dividends are not subject to the 15% withholding of income tax if the distributor is a publicly-owned corporation, a tax-immune corporation or a subsidiary of either one.⁵⁰ A new import duty tariff conforming to the Brazilian Nomenclature for Goods has been adopted. It entered into effect on January 1, 1980. It does not affect import duty increases which are to prevail until June 30, 1980.⁵¹ The new tariff has been established by the Council for Customs Policy pursuant to the authority granted it by law to increase or decrease import duties. Amendments to the new import duty tariff which entered into effect on January 1, 1980 have been enacted. From March 13, 1980 to March

48. Decree-Law 1844 of December 30, 1980; Resolution 672 of December 31, 1981.

49. Decree-Law 1814 of November 28, 1980.

50. Decree-Law 1841 of December 29, 1980.

51. Decree-Law 1753 of December 31, 1979.

31, 1981, several items of the import duty tariff were taxed at a 30 % ad valorem rate and others, at a 45 % ad valorem rate. Certain import duty increases which were to expire on June 30, 1980 were extended to March 31, 1981.⁵²

The industrialized products tax tariff has been superseded by a new tariff, effective January 1, 1980.⁵³ Changes in the industrialized products tariff recently enacted went into effect retroactively from January 1, 1980. For several products, the rate has been increased to 32 %, while for others it has been reduced to zero. Changes in the regulations have also been passed; they relate to the reduction of the tax rate by 50 % in certain cases.⁵⁴

In order to finance a Fund for Renovation of the Merchant Marine, a tax on freight has been created. It applies at a 20 % rate on charges for shipments to domestic ports and at a 30 % rate on those arriving from foreign ports.⁵⁵ The 30 % rate will be reduced to 20 % beginning January 1, 1985, unless the rate is revised to be commensurate with the level reached by the fund resources. The tax is payable to the Bank of Brazil by ship operators within 15 days following the departure of a vessel in domestic trips, or the arrival from foreign ports.

Effective January 1, 1980, rural property has been taxed according to new rules. The changes relate to guidelines for appraisal, new formula for computing the tax rate on the basis of the size of the land, surtax for unexploited land suitable for farming or forestry, and tax reductions for efficient exploitation of land.⁵⁶

The depletion allowance for mining companies which was granted for ten years beginning in 1970 has been extended for another ten years beginning with the fiscal year 1980. However, the maximum allowance must include that claimed under prior laws.⁵⁷

Legal entities or sole proprietorships whose annual gross income including non-operating income is equal to or lower than the par value of 3,000 Readjustable National Treasury Obligations, and which meet certain conditions, shall be exempt from income tax beginning with the fiscal period 1981, taxable year 1980.⁵⁸ Excluded

52. Decree-Law 1775 of March 12, 1980.

53. Decree 84338 of December 26, 1979.

54. Decree 84637 of April 16, 1980; Decree 84634 of April 14, 1980.

55. Decree-Law 1801 of August 18, 1980.

56. Law 6746 of December 10, 1979; Decree 84685 of May 6, 1980.

57. Decree-Law 1779 of March 26, 1980.

58. Decree-Law 1780 of April 14, 1980.

from the new exemption are corporations, firms partially or totally owned by nonresidents, holding companies and those indirectly engaging in certain activities listed by the new statute through their owners.

Starting January 1, 1980, all rates of the single tax on lubricants which entered into effect on that date were reduced by 25 %.⁵⁹

The computation of the excess profits tax issued by the Treasury and construed by the Tax System Coordinator have been upheld in a recent decision of the First Taxpayers' Council. The Council held that the excess profits tax is assessed annually on a three-year basis. Therefore, the remittances of the last two years of a three-year period may only be considered in the first two years of the following three-year period in the amount representing the 12 % statutory limit of the average capital of each of those years. This is so, only in the preceding three-year period, if the respective amounts in excess of such limit have been subject to the excess profits tax. If the excess remittances ascertained for the preceding three-year period were not subject to tax (even because of supervening statute of limitations), the remittances of the last two years of such three-year period shall be computed in the subsequent three-year period in the amounts actually remitted, as prescribed by the Treasury.⁶⁰

The Federal Court of Appeals has affirmed a decision of the First Taxpayer's Council holding a foreign company liable for tax on sales invoiced directly from abroad but promoted by a local agent. In the appeal, the local agent argued that there is no statutory authority to assess the tax and that the agent would have to bear the burden of the tax levied on the nonresident seller, in the absence of any provision for withholding. Answering such argument, the court held that the authority originated in a literal and narrow reading of the statutes in existence since 1942, dealing with profits derived by nonresidents selling from abroad. The court concluded that the agent is regarded as a branch of the seller, whether it is affiliated or not, and, therefore, attributed net income (20 % of gross sales) is subject to 30 % tax on profits derived within the country, as well as to 25 % tax on distributions to nonresidents.⁶¹

In the area of promotion for economic development, new rules on administration of tax incentives have been passed. Investments

59. Decree 84300 of December 11, 1979.

60. Decision of August 6, 1980, First Taxpayers' Council.

61. Decision of March 6, 1980, First Taxpayers' Council.

through tax incentives are subject to new rules. These rules deal with the issuance of certificates reflecting investment of tax money in funds selected by the taxpayer. Such investment is to be shown in an annual statement of account issued by the Secretary for Federal Revenue.⁶²

The Monetary Council has been vested with the power to reduce up to zero or to reinstate the rate of income tax levied on remittances abroad under commercial leasing contracts for capital goods.⁶³ Should a higher rate be partially or fully reinstated, such rate shall not result in an increase of the rate prevailing at the time of registration of the leasing contract in the Central Bank.

Commercial leasing of capital goods from abroad for no less than five years has been favored, as required by a recent statute, by reducing the 25% withholding tax on rental payments to 5%. Such rate is only 2.5% if the amount of the lease is less than 75% of the value of the leased assets, increased by the finance charge. Foreign exchange acquired for the payment abroad of the rent is subject to tax on financial transactions computed at 90% of the rate otherwise applicable to the assets involved.⁶⁴

The tax credit of up to 1% of the income tax due, for investments in new shares of the Brazilian Enterprise of Aeronautics, S.A. has been extended up to, and including, the fiscal period 1982 (taxable year 1980).⁶⁵

Equipment for the installation, expansion or modernization of motion picture studios may be imported free from duties and industrialized products tax until December 31, 1982.⁶⁶ The enjoyment of the exemption is contingent on the approval of the project in which the assets are to be utilized, by the National Motion Picture Council.

Undertakings located in the Grande Carajas area, north of parallel 8, may receive the tax benefits to be fixed by regulations, pursuant to a new statute. Independently from any such benefit, another statute establishes an exemption from income tax for undertakings located in that area and which are started, expanded or modernized no later than December 31, 1985. The exemption shall last ten years and the tax saved is to be capitalized or invested within the area. The amount of tax thus capitalized shall not be treated as reinvestment for pur-

62. Decree-Law 1752 of December 31, 1979.

63. Decree-Law 1811 of October 27, 1980.

64. Resolution 666 of December 17, 1980, Central Bank of Brazil.

65. Decree-Law 1802 of August 29, 1980.

66. Decree-Law 1847 of December 30, 1980.

poses of registration of foreign capital in the Central Bank; nor may it ever be distributed to owners or shareholders through capital reductions.⁶⁷

Responding to inflationary pressures, and exercising the authority granted it by the law, the Ministry of the Treasury has fixed the coefficient for updating cruzeiro values contained in the Income Tax Law at 1.55%. The coefficient applies from the fiscal period 1981 (taxable year 1980). A similar coefficient applies for adjusting income tax withheld at the source during the taxable year 1980. Adjusted brackets of taxable income of individuals are set forth. Implementing the application of the new coefficient, the Secretary of Federal Revenue has released a table of the values expressed in cruzeiros in the Income Tax Law as consolidated in 1975 and subsequent amendments, and as consolidated in 1980, exclusive of the brackets of taxable income of individuals, and rounded-off to the closest hundredth of cruzeiros, and a table of the values expressed in cruzeiros in the decree-law that revamped taxation of legal entities.⁶⁸

In the social security area, three statutes revising social security rules and other employee benefits have been passed. A law orders the payment by employers to dependents and heirs of deceased employees, of reserves attributable to the deceased employee in the fund for guarantee of time of service. The same treatment shall be given to reimbursements relating to the income tax and other taxes withheld by an individual. In the absence of heirs, the moneys shall revert to the fund in which they were originated, and income tax withheld or savings accounts shall become the property of the Social Security and Welfare Fund. Another law amends the Law for Urban Social Security, affecting contributions by domestic servants and diplomats, from January 1, 1981. A decree-law alters the system for monetary adjustment of past due social security contributions, effective January 1, 1981.⁶⁹

Concerning tax administration, Congress has regulated the judicial collection of moneys owed the Treasury whether originating in taxes or not. The procedure starts with the recording of the debt and may end with the auction of property attached in the process.⁷⁰ Col-

67. Decree-Law 1813 of November 24, 1980; Decree-Law 1825 of December 22, 1980.

68. Portaria 386, November 17, 1980; Ruling Instruction 134 of December 17, 1980.

69. Law 6858 of November 24, 1980; Law 6887 and Decree-Law 1816, both of December 10, 1980.

70. Law 6830 of September 22, 1980.

lection includes principal debt, its monetary adjustment, interest and fines. Assets are to be attached in the following order of priority: cash, bonds, jewelry, real estate, vessels and aircraft, vehicles, personal property and securities. In special circumstances, a business, crop or building under construction may be attached.

The National Institute for Agrarian Reform has been authorized to receive rural property conveyed to it in payment of tax on rural property and of contributions to the social security system by farm enterprises.⁷¹ The conveyance of real property is allowed only if the value of the property conveyed is equal or greater than the moneys owed the government. No cash reimbursement will be granted if the value is greater than the debt.

Congress has approved two treaties to avoid double taxation. One treaty was entered into with Italy, and the other with Luxembourg.⁷² The treaty with Italy was signed on October 3, 1978 in Rome. It applies to taxes on income. The treaty with Luxembourg was signed on November 8, 1978 in Luxembourg City. It applies to taxes on income and on capital. The treaty with Luxembourg, to avoid double taxation of income and capital, has been promulgated. The tax on dividends may not exceed 15% if the recipient is a company owning at least 10% of the payor; otherwise the rate could be up to 25%. The tax on interest may not exceed 10% if certain conditions are met; otherwise it could be up to 15%. The tax on royalties may not exceed 25% on royalties for trademarks and film rentals; on other royalties it could be up to 15%. The treaty became effective on July 23, 1980.⁷³

CHILE

Important tax policy developments are to be heralded. Under amendments introduced in the Income Tax by a recent decree, fees paid abroad for technical services rendered abroad, which were exempt from the 40% additional tax if certain conditions were met, are no longer exempt; they are now subject to the tax at a 20% rate. Another significant change is the exclusions from gross income of dividends and other distributions made from January 1, 1980 and originating in exempt profits, even if distributed to nonresidents. No less important is the new procedure for computing the additional 40%

71. Decree-Law 1766 of January 28, 1980.

72. Legislative Decrees 77 and 78, both of December 5, 1979.

73. Decree 85051 of August 18, 1980.

tax payable by corporations in undistributed profits, which now includes the housing tax. Other rules deal with payment of estimated income and housing taxes. The Housing Tax Law has been amended to require payment of the tax along with the First Category income tax.⁷⁴ A new decree-law has lowered the rates of the First Category income tax and the complementary income tax levied on income of resident individuals by 2%, beginning October 1, 1980 and January 1, 1981, respectively. Other changes deal with entertainment expenses and business use of automobiles.⁷⁵ Construing provisions which amended the Income Tax Law, the Internal Revenue Service has ruled that the special tax, equivalent to 7.5% of undistributed profits payable by Chilean corporations for the account of nonresident shareholders, has been repealed effective August 1, 1980.⁷⁶

The Stamp Tax Law has been amended to eliminate from its provisions every reference to sealed paper. The changes took effect on August 1, 1980.⁷⁷ Because of the elimination of sealed paper, the Minister of Justice has been ordered to determine the type of paper to be used in judicial proceedings, recording offices, notary public offices and others which use sealed paper. As a result of this elimination, judicial and administrative proceedings are no longer subject to tax. Therefore, agencies of foreign companies are not liable for the tax on administrative proceedings for their recognition, but remain subject to tax on their capital.⁷⁸ The old Stamp Tax Law has been superseded by a new law which entered into effect on November 1, 1980. Among the documents subject to the tax are checks, invoices, drafts, books of account and transfers of realty. The tax on the latter applies at a .50% rate of the transfer value or on the appraisal value, whichever is higher. Transfers which are contributions to the capital of companies are exempt. Also exempt are documents containing contracts for investment of foreign capital, for foreign loans and for transfers of technology or licensing from abroad.⁷⁹ The executive branch is authorized to adjust the fixed rates every six months. The adjustment is to be based on the change of the cost-of-living index between November 1, and April 30, and between May 1 and October 31 of each year, and shall apply from July 1 and January 1, respec-

74. Decree-Law 3454 of July 16, 1980.

75. Decree-Law 3473 of August 29, 1980.

76. Circular 67 of September 26, 1980.

77. See note 74 *supra*.

78. Circular 59 of August 27, 1980.

79. Decree-Law 3475 of August 29, 1980.

tively. Regulations under the new Stamp Tax Law have been issued by the Internal Revenue Service. They deal primarily with deadlines to pay the tax on each of the various types of documents subject to the levy. They also deal with the manner of payment, which is, by and large, in cash to the Treasury. Only the tax on private documents is paid by affixing stamps to the respective document. According to the Regulations, the effective date of the new tax is November 1, 1980.⁸⁰ The regulations point out that taxpayers such as banks must number the drafts they issue, pages of their books of account, their invoices and any other taxed document, all of which must be listed chronologically in their records.

Several changes have been introduced in the law imposing the tax on inheritances, assignments and gifts. A new progressive rate based on brackets measured by "annual tax units" (standard fixed monthly pursuant to the Tax Code), and the change of certain value limits to that same standard are among the most important changes. They took effect on January 7, 1981.⁸¹ Corporations, excluding insurance companies, have been authorized by the Superintendency of Companies to perform a technical revaluation of their fixed assets. The higher value must be entered into a reserve account for future capitalization. The Internal Revenue Service has held that such revaluation shall have no tax effect.⁸²

According to a Ruling of the Internal Revenue Service dealing with various expenses of mining operations, mining companies may not deduct expenses in preparing a mine in the year when such expenses are incurred, but rather are to be treated as costs of the mineral extracted. They should be pro-rated over the estimated amount of mineral in the deposit and charged against the amount received upon sale of the mineral.⁸³ According to the Ruling, those expenses such as fees for merger of companies, feasibility studies and legal expenses of forming the legal entity, which are not to be regarded as cost of goods sold, and are not necessary to produce the income of the year when they are incurred, are to be amortized over a five-year period.

Under an amendment to the Income Tax Law, income from insurance premiums derived by foreign insurance companies for covering Chilean risks is no longer exempt. The only exception is income

80. Circular 72 of October 8, 1980.

81. Decree-Law 3545 of December 16, 1980.

82. Circular 9 of January 29, 1980.

83. Rev. Rul. 346 of January 18, 1980.

from premiums for insuring vessels and aircraft and liability related to sea and air transportation. The change enters into effect 90 days after January 10, 1980.⁸⁴ The tax rate is 40 % on the gross premium.

The rates of the tax on the first sale or importation of gasoline have been revised according to the octane content.⁸⁵ The new rates range from 2,863 pesos per cubic meter for gasoline of up to 81 octane, to 5,582 pesos per cubic meter for gasoline of over 92 octane.

Beginning August 1, 1980, admissions to public shows are subject to sales and service tax, while the Admissions Tax Law has been repealed. Other changes levy an additional 20 % tax on color television sets sold.⁸⁶

One inflation-generated measure is to be noted. Exercising the authority granted it by the Stamp Tax Law, the executive branch has updated the fix rates of the tax by increasing them 14.6 % as of July 1, 1980. A table of such rates has been released.⁸⁷ The executive branch is authorized to adjust the fixed rates of the stamp tax imposed by such decree-law every January and July by an amount equivalent to 100 % of the cost-of-living index change for the preceding 6-month period.

Regarding the social security area, the 10 %-of-payroll contribution to the single fund for family allowances has been reduced to 7 % beginning May 1, 1980.⁸⁸ A novel pension fund system has been created by a decree-law and implemented by another. Beginning May 1, 1981, workers shall contribute at least 10 % of their salary but not on the salary excess over 60 "Promotion Units" (standard fixed on daily basis by the Superintendency of Banks) to form an individual capitalization account to be administered by new corporate entities designated "Pension Fund Administrators." Workers currently contributing to existing funds may elect to transfer their vested rights for benefits covered by the new system to any of the Administrators, in the manner prescribed by the law. The contribution, as well as the appreciation, of a worker's quota in the respective Administrator, are excludable from taxable income for income tax purposes. A second decree-law, which entered into effect on March 1, 1981, regulates contributions to present funds for benefits not covered by the new system, and the computation of such contributions by adjusting, for contribution purposes only, the amount of salary subject to contribu-

84. Decree-Law 3057 of December 18, 1979.

85. Decree 23 of January 14, 1980.

86. See note 74 *supra*.

87. Decree 418 of June 9, 1980.

88. Decree-Law 3361 of May 14, 1980.

tion. It also provides for severance pay benefits. Pursuant to the second decree, employers remain obligated to pay the 1% to 4% payroll tax for insurance against work accidents and work diseases, but are no longer required to pay the 1.7% payroll tax for the "Single Family Allowance System," nor the 2% contribution to the Unemployment Fund. However, they are subject to a new tax which will apply on the payroll subject to social security contributions regardless of the system elected by the workers, at a 3%, 2% and 1% rate until December 31, 1981, 1982 and 1983, respectively.⁸⁹ The new system will grant retirement, old age, disability and survivor's pensions, as well as severance pay. The financing of the system is supplemented by insurance as well as by income from the portfolio of securities prescribed by the statute. Self-employed workers are entitled to join the system under special rules.

Within the tax administration area, two measures are worth reporting. Penalties for fraudulent claims of tax refunds and credits and for fraudulent failure to pay over taxes withheld have been stiffened. To this effect, changes have been introduced in the Tax Code, Sales and Services Tax Law and Penal Code.⁹⁰ Among the persons named liable and subject to incarceration are managers, administrators and partners of companies, and accountants in charge of a taxpayer's accounting. In-bond warehouses will be operated in international airports under a new decree-law which introduced various amendments relating to customs administration and Customs Bureau powers.⁹¹

COLUMBIA

In the tax policy area, the major changes concern import duties. Various import duty rates have been revised, effective December 14, 1979. Among the products affected are plastic tubes and machinery replacement parts.⁹² Effective March 18, 1980, lower import duties apply to several products listed in a new decree.⁹³ Pursuant to the commitments undertaken by Colombia as a member of the Andean Pact, and exercising the power granted it by law, the executive branch has approved a new Import Duty Tariff. It entered into effect on June 27, 1980. A maximum tariff is provided for imports from countries which treat Colombia as a less favored nation.⁹⁴ The maximum tariff

89. Decree-Laws 3500 and 3501, both of November 4, 1981.

90. Decree-Law 3443 of June 30, 1980.

91. Decree-Law 3580 of December 30, 1980.

92. Decrees 3096 and 3097, both of December 14, 1979.

93. Decree 675 of March 18, 1980.

94. Decree 895 of April 18, 1980.

consists of a surcharge equal to the general duty rate, but not less than 30 % ad valorem, and of a 30 % duty if the goods are exempt under the general tariff. Numerous items of the recently-issued Import Duty Tariff have been revised, including several additional notes. Most of the changes took effect on July 25, 1980. Others applied retroactively to July 1, 1980.⁹⁵ Three decrees revising import duties for goods imported by the automobile and tractor assembly industry have been passed. They became effective on August 29, 1980.⁹⁶ Three decrees revising duties for several items of the Import Duty Tariff entered into effect on October 21, 1980, thus superseding earlier revisions.⁹⁷ While the new duties range from 10 % to 30 % with a few exceptions, certain imports for the metallurgic industry will be subject to only 1 % duty if a favorable opinion from the competent authority is produced before customs. Scores of items of the Import Duty Tariff have been revised effective November 17, 1980.⁹⁸

Under a new decree, legal entities will be allowed to invest tax-free capital gains by acquiring certain government bonds. Certain limitations on amending tax returns have been eliminated.⁹⁹ The Income Tax Bureau has ruled on the deduction for investments by legal entities. Such deduction may not exceed 20 % of the taxable ordinary income of a legal entity in excess of the presumptive income of corporations. Therefore, book profits and capital gains are to be excluded in computing said percentage.¹⁰⁰ The Council of State has held that foreign exchange losses incurred in obtaining working capital since 1974 are deductible. On the other hand, royalties paid abroad under a contract approved by the Superintendency of Royalties must be approved by the tax authorities in each year in which they are actually paid, in order to claim their deduction.¹⁰¹

All persons extracting coal have been subject to payment of a 5 % tax on the coal extracted by them, since January 1, 1980. Such payments are deductible from taxable income for income tax purposes.¹⁰² For purposes of determining the tax base, the Ministry of Mines and Energy will fix the value of a ton of coal at the pit every six months. In order to claim the deduction, income tax payers must attach to their return a certificate showing payment of the tax to the National Fund for Coal.

95. Decrees 1942, 1943 and 1947, all of July 25, 1980.

96. Decrees 2266, 2267 and 2268, all of August 29, 1980.

97. Decrees 2809, 2810 and 2811, all of October 21, 1980.

98. Decree 3073 of November 17, 1980.

99. Decree 727 of March 26, 1980.

100. Rev. Rul. 029 of May 6, 1980.

101. Decision of September 20, 1979.

102. Law 61 of December 21, 1979.

Reversing its prior position, the Council of State has held in a split decision, that for real property tax purposes, machinery and installations of a going business, a brewery in this case, whether or not they are attached to the land, are to be included in the appraisal of the land on which the business operates. A dissenting opinion found the decision to be against the precedents and harmful for the economic and social development of the country.¹⁰³

Congress has authorized the executive branch to grant special tax privileges to Colombian or Colombian-controlled companies engaged in marketing Colombian products abroad. Such privileges would be represented by Tax Credit Certificates. Pursuant to such authority, the executive branch has decreed that exports shipped on or after January 1, 1980 give rise to a tax credit in an amount equivalent to 12%, 9% or 5% of the FOB value, depending on the product.¹⁰⁴ Among the tax privileges is that the reinvestment of gains from sale of depreciable assets are not subject to the capital gains tax if the proceeds are applied to the purchase of fixed assets. Also profits invested in other promoted companies will be tax free. A special customs system for such enterprises may be established.

Under the Income Tax Law, any taxpayer who invests proceeds from selling fixed assets in qualified projects and bonds of the Institute for Industrial Development will be exempt from income tax on the gains derived from the sale of the assets. Investments in shares of, or participations in, the international trading companies described by a new decree which implements the law fostering export companies, will qualify for such exemption.¹⁰⁵

Machinery and equipment imported to be used in the exploration and exploitation of coal or which are designed to replace oil by coal shall not be subject to import duties. Machinery and equipment designed to replace oil by coal may be depreciated for fiscal purposes over a five year period.¹⁰⁶ The exemption described above applies to raw materials and replacement parts imported to manufacture such equipment within the country.

Responding to inflationary pressures, the peso amounts contained in the Income Tax Law and in the Stamp Tax have been adjusted. Exercising the power vested in it by law, the executive branch has updated the amounts expressed in pesos in the Income Tax Law.

103. Decision of September 28, 1980.

104. Law 67 of December 26, 1979; Decree 3210 of December 28, 1979.

105. Decree 2874 of October 24, 1980.

106. See note 102 *supra*.

Brackets of income and brackets of net worth subject to progressive rates applicable in the taxable year 1980 have been revised, by 24.72% (100% of the cost-of-living increase). For the taxable year 1980, the executive branch has also updated peso values contained in various income tax-related laws and decrees.¹⁰⁷ Exercising the authority granted to it by the Stamp Tax Law, the executive branch has increased the amounts expressed in pesos in said law. The new fixed rates entered into effect on January 1, 1980.¹⁰⁸ The executive branch is to adjust fixed rates contained in the law by 8% per year every second year. The authority was not exercised in 1978. Therefore, the adjustment represents the cumulative 8% coefficient for four years.

Two special situations of great interest to nonresidents have been regulated. Basic rules and procedure for remitting profits and repatriating capital have been released by the Exchange Office. It is emphasized that only dividends and profits generated by registered foreign capital may be remitted. It is also noted that there is no legal impediment for paying income taxes or remittance taxes with dividends or profits generated by non-registered capital.¹⁰⁹

As long as the net remittance generated by foreign investment does not exceed 20% of the registered capital, an investor may remit profits from the registered investment and pay income and/or remittance tax levied thereon with profits generated from non-registered capital.¹¹⁰ It is held that although the remittance tax base is the amount intended to be remitted, there is no legal impediment to paying such tax with dividends derived from non-registered capital.

COSTA RICA

There has been much activity in the area of tax policy. Important changes in the Income Tax Law entered into effect on August 8, 1980. Most of them affect taxation of resident individuals, including taxability of vacation pay, workmen's compensation, imputed rental value, and deductibility of fees paid to resident professionals and of paid residential rent. Corporations, companies, undivided estates and trusts shall pay tax at a new rate; it ranges from 15% on the first 50,000 colones of taxable income, to 50% on taxable income in excess of 1,000,000 colones. The Tax Bureau has been authorized to assign a number to each taxpayer for better administration of tax compli-

107. Decree 2534 of September 22, 1980.

108. Decree 3212 of December 28, 1979.

109. General Circular 64 of December 27, 1979.

110. Rev. Rul. 006 of January 10, 1980.

ance.¹¹¹ Prior to the amendment, companies were subject to tax at a progressive rate ranging from 5% on the first 5,000 colones of taxable income to 45% on taxable income in excess of 1,000,000 colones. Other changes relate to payment of estimated tax, revision of the standard deduction according to the cost-of-living index, withholding of 1% on payments to contractors, and increased tax from 5% to 15% on interest from bonds and debentures not listed in the Securities Exchange.

Exercising the authority granted to it by the Selective Consumption Tax Law, the executive branch has revised the rates applicable to certain motor vehicles. The new rates entered into effect on January 24, 1980, superseding those in effect since October 23, 1979.¹¹² The new rates apply to imported or locally assembled jeeps, station wagons, small buses, pick-ups and vans. Beginning April 2, 1980, consumption tax on soft drinks, certain alcoholic beverages, beer and cigarettes will apply at a 25%, 10%, 35% and 20% rate respectively.¹¹³ Two decrees declaring exempt from sales and selective consumption taxes, buses for public transportation and supplies used in maintenance and repair of aircraft have been passed. Both entered into effect on April 28, 1980.¹¹⁴ Effective August 1, 1980, all rates of the selective consumption tax have been raised by 6% ad valorem, with the following exceptions: a) motor vehicles listed in the new decree will be subject to tax at the rates specified for each of them, thus amending the rates fixed from January 1980, b) the 6% increase does not apply to soft drinks, certain alcoholic beverages, beer and cigarettes.¹¹⁵ Motor vehicles such as jeeps, station wagons, small buses, pick-ups and vans remain governed by the old provisions but subject to the new rates. If any of those vehicles uses diesel oil, the appropriate rate is raised by 40%. Soft drinks and other products not affected by the increase remain governed by Decree No. 11316-H of March 25, 1980.

The executive branch has released a consolidated text of the tariff of the selective consumption tax, as last amended in July 1980.¹¹⁶ The new decree does not amend any prior decree or tariff in force. It consolidates the tariff of the selective consumption tax created by Law No. 4961 of March 11, 1972, as last amended by Decree No. 11720-

111. Law 6450 of July 15, 1980.

112. Decree 11026-H of December 18, 1979.

113. Decree 11316-H of March 25, 1980.

114. Decrees 11389-H and 11390-H, both of April 16, 1980.

115. Decree 11720-MEIC-H of July 31, 1980.

116. Decree 1855-H-MEIC of September 9, 1980.

MEIC-H of July 31, 1980. On the ground that discriminatory tax rates tend to increase the cost of living, the executive branch has revised all the rates of the selective consumption tax eliminating the differential applied to imports from outside the Central American countries. It also allows the Tax Bureau to grant exemptions for certain goods. The new tariff entered into effect on December 26, 1980. Prior to such date, the tax on beer had been fixed at 20 % or 22 % if imported beer originated outside the area. These rates entered into effect on December 18, 1980.¹¹⁷

The fixed duty on coffee exports has been raised from 9.4 % to 13 % ad valorem beginning with contracts for the sale of coffee for exportation registered on or after December 13, 1979.¹¹⁸

Effective September 25, 1980, a new surcharge has been imposed on imports other than raw materials to be processed. The surcharge is 15 % for certain machinery, building materials, pharmaceuticals, and motor vehicles; it is 25 % for foodstuffs, chemicals, liquor, tobacco, processed goods and livestock. Exporters have been allowed to convey 50 % of their proceeds in the free market.¹¹⁹ The new surcharge does not apply to imports from Central American countries or Panama. Only machinery to be used in manufacturing, farming, transportation or construction is subject to the 15 % surcharge. Any other machinery is subject to the 25 % surcharge. Exporters have been required to surrender to the Central Bank 100 % of their proceeds, under Law No. 5519 of April 24, 1974.

In an attempt to favor domestic manufacturers of capital goods, no exemption from import duty will be granted on such goods if the competent authority determines that there are similar goods available in the domestic market at equal or lower price. The new rules entered into effect on November 26, 1980.¹²⁰ Importers are now required to file with the Ministry of Economy, Industry and Commerce a list of the goods they propose to import free of duty. These lists are to contain specifications of each good so as to enable the technicians of the Ministry to compare their quality with that of those produced locally.

Several provisions of the Fiscal Code relating to the stamp tax have been revised. They affect commercial paper, fees of self-em-

117. Decrees 12167-H-MEIC and 12097-H of December 9, 1980.

118. Decree 11007-H of December 11, 1979 *as implemented by* Decree 11102-H of January 11, 1980.

119. Service Order 16339 of September 25, 1980, Central Bank.

120. Decree 12052-MEIC of November 19, 1980.

ployed professionals, mortgages, powers of attorney, passports and recording of importations.¹²¹

Rules to promote economic development affect both exports and immigrants. The regulations under the law for the promotion of non-traditional exports have been amended with respect to temporary imports. Duty benefits for such imports will be cancelled if not utilized during 12 months or if the products exported are penalized abroad by countervailing duties.¹²²

To attract more retired immigrants, bringing culture and technical knowledge to the country, requirements for obtaining the tax incentives provided for in current legislation have been eased, effective November 7, 1980.¹²³ Immigrants enjoying import duty tax concessions are required to live within the country at least six months each calendar year. Under the present amendment, if certain conditions are met, that requirement may be waived.

DOMINICAN REPUBLIC

The only significant tax developments have been in tax policy area. A bill increasing income tax of enterprises was discussed, reformed, voted and approved by the House of Representatives. The new progressive tax rate applies at 10, 13, 16, 19, 22, 27, 34, 38, 41, 44 and 47 percent depending on the bracket of taxable income. The highest rate applies to income in excess of 1,000,000 Dominican pesos.¹²⁴ Among the changes is the effective date of the law; it will apply from the date of its promulgation rather than from October 1, 1980, as originally called for in the bill.

The executive branch has declared the tax on internal consumption of petroleum by-products ineffective for one year beginning February 1, 1980.¹²⁵

The House of Representatives has approved the bill imposing a tax on urban real property. The tax rate is 1 % of the appraisal, except vacant property, which is taxed at 2 % rate.¹²⁶ The amendments introduced to the bill relate to the increase from 30,000 to 60,000 pesos of the appraisal of property to be exempt, and from 10,000 to 15,000 pesos, the appraisal of vacant property taxed at the 2 % rate.

121. Law 6450 of July 15, 1980.

122. Decree 10965-MEIC of December 4, 1979.

123. Decree 11981-P of October 30, 1980.

124. Release of August 27, 1980.

125. Order 3327 of January 31, 1980.

126. Release of August 21, 1980.

Rates will be revised every three years after open discussion in public hearings.

Three proposed taxes, the added-value, the real property, and the motor vehicle license taxes are the prelude to the modernization of the Dominican tax system, according to the Secretary of Finances. The draft of each bill was made public so that interested sectors may study them.¹²⁷ The Secretary of Finances described the added-value tax as a partial replacement for current taxes on foreign trade and franchise taxes rather than an additional tax. He regarded the tax as a single levy, with little impact on inflation. This revenue will reduce the Treasury's loss of 90 million pesos caused by price increases of Venezuelan oil imported by the Dominican Republic. The Secretary stated that property tax would apply only to urban property. This will promote building and construction. To this end, the 1% rate is doubled to 2% on unimproved urban plots. These bills have been delivered to the President of the Republic.

The General Director of the Income Tax Bureau has recognized certain entertainment and traveling expenditures as necessary business expenses.¹²⁸

ECUADOR

Regarding tax policy, important income tax changes entered into effect on January 1, 1980. Remittances abroad or crediting to nonresidents of fees, royalties and other income items are now regarded as being of Ecuadorian origin in their totality. Accumulated profits of financial companies are no longer exempt. Other changes relate to imputed rental value, reconstruction of income, carrying of accounting records and registration of contracts. The executive branch has been ordered to issue regulations.¹²⁹

Several items of the Import Duty Tariff have been revised, effective July 5, 1980.¹³⁰ Among the products covered by the changes are certain chemicals, machines, tools, appliances and replacement parts.

In addition to the current 1% single tax on loans, credit and discount transactions made by banks, including the Central Bank, and financial institutions have been subject to a .25% tax earmarked for the Society Against Cancer. The new tax entered into effect on November 28, 1980.¹³¹

127. Release of February 15, 1980.

128. General Rule 3 of November 10, 1980.

129. Legislative Decree of December 27, 1979.

130. Decree 343 of June 26, 1980.

131. Legislative Decree 52 of November 14, 1980.

Numerous exemptions from the single admissions tax have been terminated as of January 11, 1980.¹³² No exemptions other than those contained in the new law are to be allowed. Thus, eleven supreme decrees granting exemptions have been repealed. The tax rate is maintained at 27% of the price of the admission ticket, except for sports events which remains at 10%.

The price on which import duties are to be applied on textiles has been fixed. If a higher price is shown in the commercial invoice, the latter shall be the duty base.¹³³ The list includes silk, cotton, wool and straw, as well as man-made fibers such as synthetic, artificial and glass fibers.

As an incentive to promote the automotive industry, manufacturers of chassis, automotive bodies and truck components may import free from duty certain parts if they are not produced within the country.¹³⁴

Two significant developments are to be noted in the social security field. Farm workers employed in sugar cane growing have been insured under the social security system since January 1, 1981. The employer and employee contributions are 9.5% and 9%, respectively. The contributions payable in the case of workers who work from one to six months in the year shall be 16% and 13% for employer and employee, respectively.¹³⁵ Among the benefits granted by the system are insurance against disability, old age and death, work accidents, medical assistance and bonuses. Full-year workers are also covered for severance pay.

Social security protection for the spouse will be extended to the five-year companion of a single worker, and self-employed workers may contribute to the system and enjoy the same benefits as employed workers.¹³⁶ A companion who enters in a new relationship loses the benefits granted by the new law. Contributions and benefits of self-employed workers are computed on the basis of the monthly average of their earnings for the 18-month period immediately preceding the application.

The highlight in the tax administration area is that a new department charged with advising and supervising tax policies has been created under the General Director of Revenue. It has been desig-

132. Law of January 4, 1980.

133. Order 244 of May 14, 1980, Ministry of Finances.

134. Joint Ministerial Resolution 88 of February 20, 1980.

135. Decree 742 of November 26, 1980.

136. Law of December 27, 1979.

nated Department of Tax Investigation and Supervision.¹³⁷ The Department shall report its findings directly to the Director and shall make recommendations. In view of the hierarchy of its function within the General Revenue Bureau, the recently-created Department of Tax Investigation and Supervision has been designated Bureau of Tax Investigation and Supervision.¹³⁸

EL SALVADOR

Very important changes of tax policy entered into force during 1980. Effective December 31, 1979, income derived by nonresidents and by large corporations will be taxed at higher rates. The rate on dividends has been increased from 20 % to 22 %; the rate on prizes and occasional gains has been increased from 20 % to 38 %; the rate of tax on any other income received by nonresident legal entities, including branch profits, has been increased from 20 % to 22 %. The minimum effective rate of tax on nonresident individuals has been increased from 20 % to 25 %. Legal entities are taxed at a new progressive rate which increased the rate of tax on income in excess of 500,000 colones from 15 % to 30 %. Consolidated returns are required if 51 % or more of the equity of a corporation is held by another corporation. Furthermore, legal entities are required to pay estimated tax.¹³⁹ Income derived within El Salvador by legal entities domiciled within the country is taxed at a 2.5 % rate on the first 10,000 colones; 5 % on the excess thereof up to 25,000 colones; 10 % on the excess thereof up to 100,000 colones; 20 % on the excess thereof up to 500,000 colones; and 30 % on the excess thereof. Under the old law, income exceeding 100,000 colones was taxed at a 15 % rate. As a result of the tax rate changes, the withholding rates have also been changed. Other changes have limited the previously permanent duration of tax incentives to manufacturing companies, to five years, which are increased by three years for benefits already granted.

Other legislative decrees amending the Income Tax Law have been passed. Under one decree, from October 30, 1980, individuals are entitled to claim a deduction for education expenses of their children up to 25 years of age; the limit on the deduction for medical fees has been removed; companies holding more than 51 % of the equity of other companies are no longer required to file consolidated returns; legal entities are no longer required to pay estimated tax;

137. Order 420 of September 12, 1980, Ministry of Finances and Public Credit.

138. Order 430 of September 22, 1980, Ministry of Finances and Public Credit.

139. Legislative Decree 73 of December 20, 1979.

certification by public accountant of financial statements attached to income tax returns is no longer required, therefore penalties for tax evasion aided by such professionals have been eliminated. Other changes relate to taxpayers' remedies. Under the other decree, tax authorities may disclose taxpayers' data to the Agrarian Transformation Institute.¹⁴⁰

The consumption tax on domestic and imported luxury items due to expire on February 28, 1980 will be in force for one more year beginning February 29, 1980.¹⁴¹

Promotion of economic development has been sought through the agrarian reform program. Owners of expropriated lands will be compensated with bonds which are free from stamp, inheritance and gift taxes; these exemptions apply also to the interest from such bonds. The bonds will be accepted to the extent of 90% of their face value, as guarantee for payment of taxes. Coupons for accrued interest will be accepted at their face value for payment of all taxes. Gains derived from transferring the bonds prior to maturity will be exempt from income tax in proportion to the amount of the proceeds invested in qualified projects for economic development.¹⁴² The bonds referred to above shall be one of three categories: Series "A," "B" or "C," maturing in 20, 25 and 30 years, respectively. The interest yield is 6%. Within Series "A," preferred bonds will be issued at 7% interest and redeemable in five years for the compensation of machinery and cattle expropriated under the agrarian reform program.

Tightening tax administration procedures, from September 30, 1980, all parties to transactions involving conveyance or mortgaging of real property are required to produce a net worth tax clearance certificate. The law imposing such tax has been amended to that effect.¹⁴³

Affiliated legal entities are required to file consolidated returns if 51% or more of the equity of a corporation is held by another corporation. Such requirement has been suspended for the returns covering fiscal years closed by December 31, 1979 or which close between that date and December 30, 1980. For the periods mentioned above, such legal entities are to file separate returns as under the old law.¹⁴⁴

140. Legislative Decree 446 of October 22, 1980; Legislative Decree 418 of October 6, 1980.

141. Legislative Decree 137 of February 20, 1980.

142. Legislative Decree 220 of May 9, 1980.

143. Legislative Decree 398 of September 21, 1980.

144. Legislative Decree 174 of March 19, 1980.

GUATEMALA

A substantial tax policy change took place. The export tax levied in lieu of income tax on coffee exports has been revised. Among the changes is a new scale of tax. It progresses in relation to the FOB price of 46 Kilos (100 Spanish pounds) from 25% to 45%. The total tax to be paid on each 46 Kilos sold at a price in excess of 208.24 quetzales per 46 Kilos is limited to ceilings fixed in the new statute. Other amendments deal with administration and collection of the tax.¹⁴⁵ The new tax rates apply only if the FOB price per 46 Kilos exceeds 70 quetzales. If the FOB price exceeds 85 quetzales, that excess is subject to the 45% rate. However, the total tax payable per each 46 Kilos exported, if the price exceeds 208.23 quetzales, but does not exceed 250 quetzales, is 60 quetzales; this limit is progressively increased as the FOB price increases, up to the limit of 90 quetzales of tax payable on each 46 Kilos of coffee exported when the FOB price per 46 Kilos exceeds 350 quetzales.

With respect to promotional measures, in an attempt to encourage tourist traffic, the lodging tax has been reduced to 10% of the service charge. The new rate entered into effect on February 27, 1980.¹⁴⁶

Administration of property tax shows a new approach to real property appraisals. The December 31, 1980 deadline for the recording of real property appraisals has been removed. In its stead, the Minister of Finances will organize a census of real property within the next eight years, based on information to be submitted by taxpayers.¹⁴⁷

In the special situations area, it should be mentioned that at the request of the Monetary Board, and exercising the power vested in it by law, the executive branch has declared in force, temporarily, beginning April 25, 1980, the Emergency System for Movement of Capitals in International Monetary Transfers. The control does not affect the sale of exchange for imports, foreign payments, remittance of profits, or traveling expenses.¹⁴⁸

Rules for the application of the new system for control of international movement of capital have been issued by the executive branch. They authorize commercial banks to operate with foreign currency, reporting such transactions to the Bank of Guatemala. Foreign ex-

145. Legislative Decree 51-80 of October 21, 1980.

146. Legislative Decree 7-80 of February 15, 1980.

147. Decree 63-80 of December 15, 1980.

148. Executive Order 192 of April 23, 1980.

change licenses will be issued for the remittance abroad of profits, dividends, interest and capital repatriation or amortizations, provided that the investment or loan has been registered in the Exchange Department of the Bank of Guatemala. The Minister of Finances has issued rules for the compliance with the new system by Customs.¹⁴⁹

HONDURAS

Minor changes took place with respect to tax policy. Import duties levied on lubricants have been raised, effective October 16, 1980.¹⁵⁰ The new duties are 24 lempiras per kilogram and 10% ad valorem. The exemption from sales tax provided for diplomatic representations has been restored, effective October 15, 1980. It had been omitted in the latest amendment to the Sales Tax Law which took effect on January 1, 1980.¹⁵¹

In the area of promotion of economic development, numerous changes have been introduced in the law which created the National Corporation for Investments. Most of the changes relate to rules of procedure. A substantive change relates to financing of the corporation. In this regard, the 10% contribution based on tax exemptions enjoyed by manufacturing companies is now imposed also on tourist enterprises.¹⁵² By a decree-law of 1974, capital investment and the securities market were favored. That decree-law created a National Corporation for Investments to be financed with an annual contribution from financial institutions and from industrial enterprises engaged in manufacturing, which are receiving tax incentives. Effective August 5, 1980, such contributions must be paid by tourist enterprises as well, if they enjoy tax incentives.

Under amendments to the Social Security Law, persons protected by the system will receive improved benefits. The statute of limitations to demand employers' contributions is ten years, while employees' contributions are never barred by a statute of limitations.¹⁵³ The changes became effective on February 26, 1980.

As a matter of tax administration, a new Customs Law became effective on August 23, 1980. It provides for administration of import and export duties, appraisal of goods, temporary importation, re-

149. Executive Order 5-8 of April 24, 1980; Order of April 24, 1980 *as amended* by Order of April 28, 1980.

150. Executive Order 157 of October 8, 1980.

151. Decree 1052 of July 15, 1980.

152. Decree 1039 of July 15, 1980.

153. Decree 891 of February 23, 1980.

exportation, taxpayer's remedies, penalties and freight forwarding regulations. The law has been enacted by decree and authorizes the executive branch to decrease import duties and to increase or decrease current appraisals by no more than 50%.¹⁵⁴ Import duties and fines thereon must be paid within four days following approval of their assessment. Export duties and fines thereon must be paid the day immediately following their assessment. Tourists may import their used personal effects free of duty. They also are entitled to exemption of up to 600 lempiras worth of taxable goods.

MEXICO

Among the features in the fiscal policy area are the enactment of new taxes and the amendment of many others. A new tax is levied on first sales of sugar and molasses, on processed cocoa and on some forestry products. The rate is 50% of the selling price including interest. A new tax has been levied on remuneration for services rendered for an employer. This rate is 1% and must be paid to the Treasury with the income tax withheld on such remuneration.

Miscellaneous changes have been made in the added-value tax. It is now provided that nonresident persons having a permanent establishment within Mexico are regarded as residents for added-value tax purposes. Farm products exemptions have been overhauled.

Amendments were introduced in the Customs Code, the Federation's Fiscal Code, the Law for Fiscal Coordination (dealing with revenue sharing by the municipalities), and in the tax on new automobiles. Peso values in the Income Tax Law have been updated and coefficients for the monetary adjustment of book values and or real estate improvements have been set forth. The changes entered into effect on January 1, 1981.¹⁵⁵

A major overhaul of the income tax regulations has been passed to conform them to the important statutory changes which entered into effect on January 1, 1980. The new provisions apply from March 25, 1980. All provisions dealing with taxation of individuals have been replaced. New provisions dealing with computation of losses from the sales of shares and liquidation of incentives to importers have been added. Numerous rules on procedure, accounting, elections and administration of the tax have been revised.¹⁵⁶

154. Decree 1004 of July 14, 1980.

155. Legislative Decree Amending, Adding and Repealing Various Fiscal Provisions of December 28, 1980; Executive Decrees of December 18, 1980.

156. Executive Decree of March 19, 1980.

The ad valorem duty levied on coffee exports has been amended. The rate ranges from 0.08 % to 20.0 % of the official price. If the selling price is less than 65.88 pesos per gross kilogram, no official price is fixed and the exportation is exempt. The new rates entered into effect on April 1, 1980.¹⁵⁷ Official price is determined in relation to the selling price. The highest rate applies to the portion of the price exceeding 97.60 pesos per gross kilogram.

Congress has revised several notes and rules of the Import Duty Law and the executive branch has revised the duty applicable to hundreds of items. The changes entered into effect on January 1, 1980.¹⁵⁸ Congress amended the Nomenclature to the Tariff with respect to hundreds of items.

Numerous items of the import duty tariff have been revised effective June 14, 1980. Merchandise in transit by that date will be subject to the old duties if they are more favorable to the importer.¹⁵⁹ Most of the products affected by the present decree are chemicals and precision machinery. Many of the duties are reduced up to zero for imports from LAFTA countries. Hundreds of chemicals, pigments, precision machines, films and miscellaneous products are subject to higher import duties, effective August 14, 1980. Special concessions were granted to such imports if originating in LAFTA countries.¹⁶⁰ The new duties range from 5 % to 100 % although the majority of the items are taxed at 10 % ad valorem. Helicopters are exempt. As a concession to LAFTA countries, the same products are taxed from 1 % to 75 % if originating in the countries indicated for each such product. Numerous items of the import duty tariff have been revised by two decrees. The duties range from 5 % to 80 % ad valorem and are reduced up to zero when the goods originate in LAFTA countries. Another two decrees revise the export duty tariff, exempting numerous products from duty.¹⁶¹ Some of the new import duties entered into effect on December 30, 1980 and the others on January 1, 1981. Both decrees list chemicals and machinery. The export duty changes took effect on December 30, 1980 and affect over 400 items.

Many measures intended to promote economic development have been passed. Construction of industrial parks is fostered by tax incentives to owners of them or to individuals or companies which invest in

157. Executive Decree of February 28, 1980.

158. Legislative Decree of December 30, 1979; Executive Decree of December 24, 1979.

159. Executive Decree of June 11, 1980.

160. Executive Decree of August 7, 1980.

161. Legislative Decrees of December 15, 17, 18 and 26, 1980.

building therein. Beneficiaries must be Mexican citizens or companies regarded as Mexican by law. The tax incentives, which are represented by "Certificates of Fiscal Promotion," shall consist of a credit against federal taxes equivalent to up to 15% of the value of improvements made by owners of industrial parks. Investors in buildings thereon will be entitled to a tax credit equivalent to 15% of the investment, and will also be entitled to claim depreciation in 12 years for income tax purposes. The credit is to be deducted from the basis of the assets. The certificates are not transferable and may be used for payment of federal taxes within five years from their issuance, except those earmarked for specific purposes.¹⁶² The incentives provided in this decree may not be claimed by persons enjoying exemptions or incentives charged against local taxes, or tax incentives granted to specific activities, except incentives awarded under the Income Tax Law, or by persons filing tax returns under special imputed income systems. A National Registry of Industrial Parks has been created; enrollment therein of each industrial park is a prerequisite to obtain any of the incentives described above.

With a view to develop Mexican technology so as to reduce reliability on foreign technology, a decree allows several tax credits against federal taxes. They are: a) 20% of investment in machinery by persons engaged in research and development; b) 20% of the cost of certain buildings used by them; c) 100% of the income tax otherwise levied on their activities; d) 15% to 25% of investments made by manufacturers in fixed assets connected with research; and e) 10% to 15% of the purchase price of Mexican technology. The tax incentives will be represented by a non-transferable tax credit certificate.¹⁶³ The new benefits entered into effect on November 27, 1980. They apply to Mexican persons and companies only. Assets acquired under this system may not be transferred for five years from the issuance of the respective tax credit. Persons enjoying other promotional systems may not claim the benefits established in the present statute.

Acquisition, construction and leasing of low-cost housing has been aided. Tax credit certificates will be issued in an amount equivalent to up to 10% of the value of reality. The certificates will be accepted as payment of federal taxes for five years from the date of their issuance.¹⁶⁴ To be eligible for the tax benefit, individuals must be Mexican citizens and have earnings below 350% of the minimum

162. Executive Decree of September 10, 1980.

163. Executive Decree of November 25, 1980.

164. Executive Decree of August 29, 1980.

salary for the area in which the house is located; the house must be their residence. Persons building low-cost houses to be leased, must be Mexican citizens or Mexican companies to be eligible for the tax benefit. Such builders, for computing their income tax, are required to determine the basis for depreciation at the cost reduced by the tax benefit represented by certificates.

Exercising the authority vested in it by the regulatory statute of the automotive industry and by the Federation Revenue Law, the Secretary of the Treasury and Public Credit has issued an order granting import duty exemption to machinery and parts imported by automotive assembly plants and auto parts manufacturers. The exemption applies throughout 1980.¹⁶⁵ The import duty exemption or subsidy amounts to 100 % for machinery and up to 75 % for raw materials and component parts. The exemption will apply throughout 1981.¹⁶⁶ The import duty exemption or subsidy amounts to 100 % for machinery and up to 75 % for raw materials and component parts. It applies only for companies not located in urban areas or which were already there when the Executive Decree of March 5, 1979 entered into effect. That decree grants investment tax credits for factories located in promoted areas.

Exporters of manufacturers listed by the Secretary of Commerce have been entitled to tax rebates under a new system since January 8, 1980. Exporters may receive a refund of up to 100% of the import duties and indirect taxes levied on raw materials for the good exported if at least 30 % of the cost of such exports originates locally. "Tax Credit Certificates" will be issued to the exporter for the value of the taxes refunded. Such value is to be fixed as a percentage of the FOB value of the product or of the CIF value, if shipped and insured through Mexican carriers.¹⁶⁷ The "Tax Credit Certificates" may be used exclusively to abate federal taxes not earmarked for a specific purpose, are not transferable and will expire five years from the date of issuance.

Under a new decree encouraging the ownership of steamship lines by Mexicans, several tax credits have been established. They are: a) credit against federal taxes equivalent to 20 % of amounts invested in new or used vessels; b) 100 % credit against tax on income from transportation for purchase of equipment, if the tax money is matched by own funds; and c) 10 % credit against federal taxes on freight

165. Order 101-774 of December 17, 1979.

166. Order 101-468 of January 2, 1981.

167. Executive Decree of December 31, 1979; Order of January 18, 1980.

charges by Mexican navigation enterprises. The tax incentives will be represented by non-transferable tax credit certificates. Earlier incentives have been terminated.¹⁶⁸ The new system became effective on November 27, 1980. Assets acquired under it may not be transferred for five years and shall be depreciated reducing their basis by the amount of the credit. Congress has enacted a law favoring Mexican steamship lines. These companies may petition tax benefits from the competent authorities. Contracts for the purchase or charter of vessels will be free from registration taxes or fees.¹⁶⁹ Application for tax benefits requires the prior opinion of the Secretariat for Communications and Transportation. A Mexican steamship line is defined as a line owned by Mexican citizens or by legal entities organized under Mexican law, having as its purpose the operation of steamship lines with their own vessels under a Mexican flag. The new law shall take effect 180 days after its official publication.

Exercising the authority vested in it by the Federation Revenue Law, the Secretary of the Treasury and Public Credit has issued an order granting an investment credit to producers of processed foodstuffs. The credit consists of 10 % of the value of motor vehicles used in distribution of the output, and will be represented by tax credit certificates. The certificates may be used to pay federal taxes within five years from the date of their issuance.¹⁷⁰ Among the products that are eligible for the incentive described above are coffee, chili, sausages, butter, margarine and oil (except olive oil). The vehicles which qualify for the recognition of the tax credit are pick-ups, vans, and tractor-trucks (fifth-wheel type). Such vehicles may not have any optional or luxury accessories.

Similar benefits have been granted for the fiscal year 1981. Exercising the authority granted to it by the Federation Revenue Law, the Secretary of the Treasury and Public Credit has granted up to 100 % reduction of the import duty levied on raw materials used by producers of the basic foodstuffs.¹⁷¹ The benefits created by the present order may not be accumulated with any other import duty concession. The free zone privileges granted to the Quintana Roo Territory and surrounding territorial waters and islands have been extended until December 31, 1985. A reduction of up to 75 % of import duties levied on capital assets may be authorized by the competent authorities.¹⁷²

168. Executive Decree of November 24, 1980.

169. Legislative Decree of December 22, 1980.

170. Order 101-368 of October 15, 1980.

171. Order of January 2, 1981.

172. Executive Decree of June 27, 1980.

The present decree entered into effect on July 1, 1980. It extends the benefits created by a decree which had expired on June 30, 1980. Duty-free stores may be authorized by the Secretary of the Treasury and Public Credit, for the use of tourists departing from the country through the free zone.

Exercising the authority vested in it by the Federal Revenue Law, the executive branch has granted up to 100% exemption from import duty for machinery imported by manufacturers of capital goods and of products to be exported. To qualify, companies must be owned by Mexican nationals. The benefits entered into effect on January 1, 1980.¹⁷³ Under one order, manufacturers of capital goods may import duty free only machinery and supplies not available within the country and used directly in the manufacturing of capital goods. Under the other order, the benefit is commensurate with the relation of volume of exportation to value of the imported goods and with the percentage by which exports of the current year exceed those of the preceding year.

Beginning January 1, 1981, Mexican manufacturers of capital goods have been entitled to import machinery free of duty, provided that they are located in promoted areas. This benefit may be accumulated with those granted to manufacturing in general. It was established pursuant to the authority vested in the Secretary of the Treasury and Public Credit by the Federal Revenue Law.¹⁷⁴ The exemption applies only to machinery and supplies not available within the country and used directly in the manufacturing of capital goods. Eligible Mexican manufacturers are those enterprises whose capital and administration are Mexican in their majority, and which have complied with registering shares owned by foreign investors pursuant to the Law for Regulating Foreign Investment.

Exercising the authority vested in it by the Federal Revenue Law, the Secretary of the Treasury and Public Credit has allowed producers of basic consumption goods to claim a tax credit equivalent to 3.3% of the selling price. The tax credit is to be represented by certificates which may be used by the recipient to pay federal taxes due by him, within five years from the date of their issuance.¹⁷⁵ The order also adds a factor for each product which is to be multiplied by the daily minimum wage for the Federal District in order to fix the maximum selling price of each product. If the selling price exceeds

173. Orders 101-783 and 101-784, both of December 17, 1979.

174. See note 172 *supra*.

175. Order of August 29, 1980.

that figure, no tax incentive is allowed on the sale of that product. The additional benefits are those established for manufacturing, plus the current exemption from added-value tax and a credit equivalent to 10%, or 20% in certain circumstances, of investments in new fixed assets.¹⁷⁶

Exemptions from gross receipts tax or tax on first sale of certain products contained in individual grants, became academic when such taxes were replaced by the added-value tax.¹⁷⁷ Enterprises which were enjoying such exemptions are now allowed since January 1, 1980, a credit against federal taxes determined in the manner prescribed in a new order. The credit will be represented by a "Tax Promotion Certificate" the amount of which is not includable in gross income for income tax purposes.¹⁷⁸ The amount of the new credit for each taxpayer is determined by applying to 1% of its taxable income the percentage shown as benefit on the federal portion of the gross receipts tax or of the tax on first sale.

Under an amendment to the Social Security Law, the minimum amount of monthly pension has been increased to 2,200 pesos.¹⁷⁹

With respect to tax administration, it is to be noted that as of January 1, 1980 the Secretary of the Treasury and Public Credit is governed by new rules. Numerous bureaus have been created. One of them, the Bureau for Services to Taxpayers, is charged with ruling on the applicability of tax laws to actual and concrete situations at the request of the taxpayers.¹⁸⁰ The powers of each of the numerous bureaus which comprise the Secretary of the Treasury and Public Credit are stated in detail, including jurisdiction to take cognizance of the administrative remedies set forth in the Fiscal Code. Judicial collection of taxes, fines and other fiscal debts is incumbent upon the Fiscal Attorney-General of the Federation.

Regulations governing the Federal Taxpayers' Registry have been passed effective October 1, 1980. Individuals and legal entities are required to enroll and supply information in the manner prescribed in the new rules. Nonresident taxpayers are also required to enroll, except those nonresident aliens who derive income from Mexican sources subject to withholding of tax at the source.¹⁸¹ Among the

176. Executive Decree of September 1, 1980.

177. Order 101-772 of December 17, 1979.

178. *Id.*

179. Legislative Decree of November 14, 1980.

180. Executive Order of December 28, 1979.

181. Executive Order of June 13, 1980.

information to be supplied is name, address, date of birth or of incorporation, activity, kind of tax returns to be filed, liquidation or winding up of business and any change in the above.

NICARAGUA

Among important changes introduced to the Income Tax Law as of April 1, 1980, are taxation of legal entities and shareholders. Legal entities will no longer be taxed at the progressive rate but rather at a fixed 40 % rate. On the other hand, dividends are no longer excludable from the income of individuals subject to the progressive rate. Corporations must withhold tax at a 10 % rate on dividends paid if the shareholder is a resident person. No withholding applies to stock dividends. If the shareholder is a nonresident person, the withholding rate is 45 % . Dividends paid to other Nicaraguan corporations are exempt.

Withholding at the source is now required on salaries and fees. Profits invested in certain promoted activities and areas will be exempt from income tax by the percentage to be established by the Ministry of Finances.¹⁸² The amount of tax payable by companies which close their fiscal year on June 30, 1980 shall be 75 % of the amount resulting from applying the progressive rate to all their annual profits, plus 25 % of the amount resulting from applying the new proportional rate to those same profits. Individuals may claim as a credit against progressive income tax, the amount withheld on dividends. Shares received tax-free as stock dividends are taxable upon their subsequent sale by the shareholder. Branches of foreign companies seem to be subject to the 40 % tax now imposed on non-commercial and mercantile companies, while the payment of a share of profits by companies to persons domiciled abroad or to their home office are taxed at the 45 % rate to be withheld at the time of payment of remittance.

Effective April 11, 1980, matches will be subject to the selective consumption tax at a 35 % rate; the law imposing an excise tax on matches has been repealed. Effective April 14, 1980, sugar sold to domestic industrial manufacturers will be subject to an extraordinary excise tax to be withheld by the seller. Sugar is sold to processors by the Nicaraguan Sugar Company, S.A. The price of white sugar is fixed at 115 cordobas, to which a 45-cordoba tax is to be added. The price of refined sugar is fixed at 131 cordobas, to which a 55-cordoba tax is to be added. Effective April 11, 1980, a progressive ad valorem

182. Decree 358 of March 31, 1980.

tax on exportation of cotton has been created. It is based on the international price of cotton. It does not apply if the FOB selling price does not exceed 700 cordobas.¹⁸³ The highest rate is 70 % of the excess over 850 cordobas. The ad valorem tax on cotton is collected by the General Tax Bureau, and payment is to be shown to customs officials prior to shipment.

A progressive ad valorem tax on exportation of beef, another on exportation of molasses and a third on exportation of sugar have been created effective February 7, 1980. Each tax is based on the international price of the respective product. They do not apply if the selling price does not exceed a minimum price fixed for each product and the highest rate is 70 %.¹⁸⁴ The tax on beef applies at a 10 % rate of FOB if selling price exceeds ten cordobas per pound, increasing progressively to 70 % on the portion of the price exceeding 13 cordobas per pound. The tax on molasses applies at a 20 % rate if FOB selling price exceeds 600 cordobas per metric ton increasing progressively to 70 % on the portion of the price exceeding 1,100 cordobas per ton. The tax on sugar applies at a 20 % rate if FOB selling price exceeds 140 cordobas per hundredweight increasing progressively to 70 % on the portion of price exceeding 190 cordobas per hundredweight. All three levies are collected by the General Tax Bureau, and payment is to be shown to Customs prior to shipment.

The progressive tax on exported beef has been replaced by a new tax per head based on the international price per pound of beef. The new tax ranges from 50 cordobas if the price is more than 10 cordobas per pound, to 370 cordobas per head if the price per pound is more than 15 cordobas. Beef sold in domestic markets will be subject to a fixed 200-cordobas tax per head. It will be revised every six months.¹⁸⁵ Revenue from the new taxes is to be contributed by the Ministry of Finances to a national fund for the promotion of the small and medium-size cattle raising industry.

Pursuant to the power vested in it by the General Statute of the Council of State, the Government Board has approved with amendments, the tax on coffee exports imposed by the Council of State. Under the amendments, the export tax is no longer levied in lieu of income tax. The export tax paid, as well as the contribution to the "Coffee Fund" payable by exporters of coffee, are both deductible as a business expense for income tax purposes. Coffee producers are re-

183. Decree 356 of March 28, 1980; Decrees 362 and 367, both of April 11, 1980.

184. Decrees 278, 279 and 280, all of January 31, 1980.

185. Decree 567 of November 11, 1980.

quired to file income tax returns and to pay tax on their net profits from coffee growing activities and from any other activity.¹⁸⁶

Sales of gold and silver made by the Central Bank have been subject to 100% tax on the value received by the bank in excess of the price paid by it to the Nicaraguan Mining Institute. The new tax applies on sales made since December 1, 1979, whether domestic or abroad.¹⁸⁷ In order to compute the excess on which the 100% tax applies, each transaction is treated separately and the marketing and refining costs are to be deducted. Such costs must be absorbed by the Treasury. The new decree nominates the Central Bank of Nicaragua as the only purchaser-manager and marketer, within and without Nicaragua, of the national output of gold and silver.

Revised rates of the sealed paper and stamp tax levied on certain certificates and legal documents entered into effect on January 3, 1980.¹⁸⁸ The new statute amends articles 2 and 7 of the Stamp Tax Law enacted by Legislative Decree No. 722 of June 30, 1962, which were last amended by Legislative Decree No. 715 of August 11, 1978.

The new consular fees tariff entered into effect on March 28, 1980. The fees are expressed in United States dollars and most are fixed, ranging from one dollar to fifty dollars.¹⁸⁹ The new law contains several rules of procedure to be followed by Consulates.

In the area of tax incentives, eligible small business companies engaged in manufacturing, and handicraft producers have been aided by a temporary law which entered into effect on April 29, 1980. Among the tax benefits are partial exemption of import duty on tools, raw materials and containers, and partial exemption of the tax on net worth.¹⁹⁰ Depending on whether the entity involved in manufacturing activities is an enterprise run by the people of Nicaragua on property owned by the State, a cooperative association for production run and owned by the workers, a cooperative association for services run by private parties, or an enterprise owned by one or more individuals as described in the statute, the import duty exemption is 100%, 75%, 50% or 20%, respectively, and the net worth tax exemption is 100%, 80%, 60% or 40%, respectively.

Tax administration features two new permits or licenses. A "Business License" has been created. It is issued by the State to individuals

186. Decree 475 of July 23, 1980.

187. Decree 637 of February 10, 1981.

188. Decree 5 of December 18, 1979.

189. Decree 351 of March 24, 1980.

190. Decree 382 of April 26, 1980.

or legal entities engaged in commercial activities or in rendering services for profit. The duration of the license is one year from its issuance by the Ministry for Domestic Commerce. The Revenue General Bureau is charged with reporting the amount of taxes paid by merchants to the above mentioned Ministry, remitting copies of their tax returns to the Ministry, and with furnishing other taxpayer information.¹⁹¹ The Revenue General Bureau is obligated to furnish the Ministry for Domestic Commerce all the data it may have regarding merchant taxpayers, such as their classification and category, the kind of business they do, the amount of taxes accrued, copies of the tax returns and in general, all kinds of information deemed necessary to regulate commerce. The new law entered into effect on October 11, 1980.

Importers of goods from Central American countries are required to obtain a "Commercial Permit" in order to bring goods into the country in commercial volume. To obtain such a permit, one must produce a tax clearance certificate. One must also be a Nicaraguan citizen or a citizen of another country residing in Nicaragua for at least five years.¹⁹² The "Commercial Permit" is to be issued by the Ministry of Foreign Trade and will expire on the 31st day of December of each year. It is renewable and non-transferable.

PANAMA

At the outset, an important tax policy development should be noted. The rate of withholding tax on dividends has been increased from 8% to 10%, effective March 20, 1980. Branches of foreign companies are to pay 10% on the after-company-tax profits. Individuals are allowed to deduct medical expenses.¹⁹³ Effective March 20, 1980, transactions exempt from the tax on personal property transfers and services have been revised.¹⁹⁴ Under amendments to the Fiscal Code relating to the tax on personal property transfers and services, supplies, seeds and tools used in farming are exempt. The changes took effect on August 13, 1980.¹⁹⁵

The constitutionality of a contract of association between a governmental agency and a foreign oil company was challenged on the ground that the Legislative Commission approving the contract had no authority to grant tax exemptions. In an extensive unanimous

191. Decree 539 of October 1, 1980.

192. Decree 534 of October 1, 1980.

193. Law 9 of March 20, 1980.

194. *Id.*

195. Law 26 of August 13, 1980.

opinion, the Supreme Court of Justice declared that such a contract, which was actually approved by the Cabinet Council, violated no provision of the National Constitution as amended in 1978.¹⁹⁶ The challenged contract is one of association between a governmental agency and Texas Gulf, Inc., for the exploitation of oil in Cerro Colorado. It provides for tax exemptions on behalf of Texas Gulf, for the 40-year duration of the contract.

Effective March 20, 1980, the 0.40-balboa duty on banana exports has been increased to 0.60 balboas per case weighing between 40 and 42 net pounds.¹⁹⁷ The Consular Fee and the Fiscal Code have been amended with respect to the issuance of navigation permits, radio operation licenses and fees for inspection of vessels. The changes entered into effect on January 1, 1981.¹⁹⁸ Pursuant to an amendment of the Fiscal Code dealing with stamp tax on entertainment tickets, tickets for admissions to movie theaters will be subject to a 0.05 balboa tax if the ticket price exceeds one balboa.¹⁹⁹

In the pursuit of economic development through tax incentives, several tax benefits are granted to new construction by new legislation. Improvements begun between April 1, 1980 and June 30, 1982 and completed by December 31, 1984 shall be free from property tax for twenty years. Those unfinished by April 1, 1980 will be exempt for fifteen years if title passes before December 31, 1981. The first transfer of a new house will be exempt from the real property transfer tax. The allowance for adjustment of the cost of property sold has been increased from 7% to 10% per year held. From January 1, 1980 through December 31, 1985, no income tax will be levied on gains from the sale of real estate if the gains are reinvested in construction in the terms of the law. Effective March 24, 1980, within limits, interest paid to finance the taxpayer's residence and education will be deductible.²⁰⁰

The law which created the "Pre-investment Fund" for financing technical and economic feasibility studies has been amended by replacing the text of each and all its provisions, effective May 27, 1980.²⁰¹ Salaries of employees of foreign consulting firms retained by borrowers from the Fund are exempt from income tax. Before the amendment, the exemption applied to all taxes.

196. Decision of January 14, 1980.

197. See note 193 *supra*.

198. Law 30 of September 17, 1980.

199. Law 50 of November 26, 1980.

200. Law 7 of March 14, 1980.

201. Law 13 of May 27, 1980.

Pursuant to a new law regulating cooperatives, these entities will enjoy exemption from any tax levied at the present time or in the future on the following acts and projects: their organization and registration, property used in performing their activity, interest received by members, documents drawn by the cooperative or by a third party in its behalf, imports used in performing their activity, and exports. Donations of property to cooperatives are not subject to income tax and are deductible by their donor. Employers are banned from maintaining a consumer association for their employees if the number of these exceeds one hundred. Such associations shall be converted into consumer cooperatives.²⁰²

Regarding tax administration, under a new statute, imports may be cleared through airport customs without paying import duties if a global guarantee for such duties is deposited by the importer.²⁰³ The deposit will be good for 30 days. After that time, import duties are due and the deposit will be refunded; however, the deposit may be extended for another 30 days at the request of the importer. The system is oriented towards persons who periodically import replacement parts and accessories for machinery which may be urgently needed.

One special situation is worth noting. Effective March 20, 1980, the 50-balboa corporate fee payable annually by domestic and foreign corporations registered in the Public Registry has been raised to 100 balboas.²⁰⁴

PARAGUAY

There have been few changes in the fiscal policy area. The 150-guarani tax imposed on each head of cattle sold or slaughtered for consumption, processing or exportation has been doubled to 300 guaranies.²⁰⁵ The tax is earmarked for financing a national campaign to eradicate hoof-and-mouth disease. It has been increased to comply with the terms of a loan by the Inter-American Development Bank.

The statute governing the 1980 sugar crop has granted total exemption from any duty or tax on the exportation of sugar, including from those imposed by the customs tariff which became effective on January 1, 1974.²⁰⁶ Selling prices for exported sugar will be no less than those fixed by the Central Bank on the date of exportation.

202. Law 38 of October 22, 1980.

203. Executive Decree 33 of May 6, 1980.

204. See note 193 *supra*.

205. Decree-Law 5 of March 31, 1980.

206. Decree 15252 of April 16, 1980.

To finance a new medical center, two additional levies have been created. One is on imported cigarettes at a rate of 25% of the FOB price. The other is a 0.30% stamp tax on invoices.²⁰⁷ Invoices are subject to stamp tax at the rate of 1%.²⁰⁸ Thus the total tax burden will now be 1.30%.

According to the Tax Court, occasional gains from the sale of real property by a financial company are to be included in computing taxable income. The 5% tax withheld at the time of the transfer is regarded as an advance of the income tax due in accordance with the tax return.²⁰⁹

The Tax Bureau assessed a sales tax on goods imported by an entity engaged in rendering services, on the ground that the exemption provided in the sales tax applied only to capital goods used in activities producing goods. The Tax Court reversed on the ground that the Investment Promotion Law under which the importer qualified, fosters the production of goods and services as well, and prevails over the Sales Tax Law.²¹⁰

A recent decision of the Tax Court deals with deductibility for income tax purposes of certain payments made by a domestic bank. The Court held that security charges paid by the bank were not deductible, while medical insurance premiums and wedding allowances required by collective bargaining were deductible. The Court also allowed the deduction of the interest paid to the nonresident parent company, on which the 30% withholding tax had been applied at the time of remittance of such interest abroad.²¹¹

Regarding promotion of economic development, two decrees terminating import duty benefits for several goods have been passed. They apply to miscellaneous household goods, clothes and liquors.²¹² Both decrees state that by applying an import duty to the goods listed therein, a fair competition in the local market will be achieved. The revenue will be derived primarily from tourists, who are the major consumers of such goods, especially liquors.

Under a law for the promotion of universities, donations made to them may be deducted in determining the income tax, and are free

207. Law 831 of November 25, 1980.

208. Decree 12064 of December 19, 1979.

209. Decision 38 of October 30, 1980.

210. Decision 29 of October 23, 1980.

211. Decision 9 of May 26, 1980.

212. Decrees 18019 and 18020, both of July 24, 1980.

from any tax.²¹³ The enactment of this law adds to the list of deductible expenses allowed by the Income Tax Law, thus implicitly amending the latter.

National banks borrowing from abroad shall withhold the 30% income tax on the interest remitted abroad at a reduced effective rate if certain conditions are met. The proceeds of such loans are to be applied in financing exports or manufacturing.²¹⁴ Under the new rules, if a loan is negotiated at the LIBOR rate (plus points), the 30% rate shall apply only on the interest representing the points in excess of the LIBOR rate of interest; if a loan is negotiated at a fixed rate of interest, the 30% rate shall apply on 6.5% of the total amount of interest. Only banks whose capital, or the majority thereof, is Paraguayan, are eligible for the new special tax treatment.

Finally, concerning tax administration, taxpayers under the Income Tax Law and the Sales Tax Law are required to keep books of account and issue sales receipts.²¹⁵ All taxpayers are required to keep documents supporting their book entries for five years. Implementing such statute, the Income Tax Council has issued a detailed regulation. Provision is made for using cash registers instead of sales invoices, for printing invoice forms, and for substantiating entries in books of account.²¹⁶ Taxpayers are required to issue numbered invoices with the information set forth in the resolution. If a taxpayer does not obtain a bill from a supplier, he must record the purchase in internal purchase vouchers which shall contain all the information called for in the sales receipt.

Payment of excise tax on imported cigarettes must be made by affixing stamps to each package at the factory.²¹⁷ In order to comply with the affixation of stamps at the factory, the importer must remit the stamps abroad in advance. Upon importation, Paraguayan Consuls will require proof of purchase of the stamps issued by the Bureau of Internal Taxes and a statement, issued by the manufacturer, to the effect that stamps have been affixed.

PERU

Tax policy changes affecting almost every tax on the books prevailed throughout the year, especially after the promulgation of the

213. Law 828 of November 18, 1980.

214. Decree 14720 of March 26, 1980.

215. Law 793 of December 24, 1979.

216. Resolution 16 of March 7, 1980.

217. Decree 21178 of December 3, 1980.

new Political Constitution of July 12, 1980.²¹⁸ The Constitution provides that taxes may be created, amended, eliminated or waived only by express law. It also declares that no tax shall be confiscatory. The executive branch is authorized to pass extraordinary economic measures when so required by the national interest. Tax laws may not apply retroactively, except if they are more favorable to the taxpayer. Congress has authorized the executive branch, for 180 days, to amend or repeal, according to the new Political Constitution, legislation passed on or after October 3, 1968. The authority applies to tax laws, fiscal code, company law, mining law and many other areas of the legal system.²¹⁹ Exercising the authority granted it by the Fiscal Code, the executive branch has created a "National Commission for Tax Reform." The Commission is to issue a report on statutory amendments necessary to adapt tax legislation to the new Political Constitution and to improve tax administration by April 30, 1981.²²⁰

Under the authority delegated by the Congress, all provisions of the Income Tax Law concerning tax rates, personal exemptions and non-business deductions of individuals, as amended by various statutes, have been revised to replace their reference to "minimum vital salary" with a reference to "fiscal tax unit." This unit shall be equivalent to 350,000 soles in the 1981 taxable year and shall be adjusted for future years according to the changes in the price index.

The 5% to 55% tax rate has been changed to a 0% rate on income up to one unit, to 65% on income in excess of 104 units. The exemption for repatriated foreign currency has been terminated, as well as deductibility of medical expenses and of certain insurance premiums.²²¹ The changes took effect on January 1, 1981.

To finance a program of food coupons and other subsidies for poor families, a surtax on taxable income of individuals and legal entities has been created. The surtax is 2% of net income and applies to the taxable income attributable to 1980. It is not a deduction from the income tax. Selective consumption taxes are also to be created to finance the program.²²² The surtax does not apply to individuals whose income does not exceed eight "annual tax units" (about

218. Political Constitution of July 12, 1980.

219. Law 23230 of December 15, 1980.

220. Supreme Resolution 375-80-EF/II of September 26, 1980.

221. Legislative Decree 7 of December 30, 1980.

222. Legislative Decree 11 of December 30, 1980 *as implemented by* Supreme Decree 026-81-EF of February 18, 1981.

2,800,000 soles) nor to legal entities whose income does not exceed sixty "annual tax units" (about 21 million soles). The new surtax is to be paid in the same manner as the income tax.

Prior to the overhaul of the income tax payable by individuals, a new scale had been enacted to minimize the effect of inflation. In lieu of fixed amounts, the brackets were measured in numbers of "minimum vital salaries." The 5% to 65% progressive rate is now 10% to 66%. Other amendments expand the types of insurance premiums which are deductible.²²³

The amounts which individuals may claim as personal exemptions in the taxable year 1980 have been revised. Since said exemptions are based in the "minimum vital salary" for Lima Province, and such salary has been fixed at 22,020 soles per month effective May 1, 1980, the amounts computed on the 18,000 soles salary effective January 1, 1980 are superseded.²²⁴ In turn, the amount fixed from May 1, 1980 was superseded by that fixed on September 1, 1980, and which is 25,350 soles. Consequently, the actual personal exemptions for the taxable year 1980 are as follows: special deduction for income from employment or as self-employed, S/608,400; personal exemption, S/532,400; spouse, S/304,200; each child, S/228,200; and other dependents, S/114,100.

Effective from the taxable year 1980, rates of the net worth tax levied on real property owned by individuals have been lowered, while property assessments are to be revised no later than March 30, 1980.²²⁵ The new progressive rates range from .06% if the taxable net worth is no higher than 2,575,000 soles, to .75% on net worth in excess of 61,800,000 soles. For purposes of the net worth tax payable by individuals during 1981, the self-appraised values of real property are automatically increased by 40% thereof, except if rented out and the rents have not been updated.²²⁶ The net worth tax is to be applied on the amounts resulting from the above mentioned increase.

Rules for the determination of taxable income of companies engaged in activities related to the exploitation of hydrocarbons have been passed. No deduction will be allowed for interest and royalties paid to affiliated foreign companies and for home office expenses not directly connected with Peruvian operations.

223. Decree-Law 23213 of July 24, 1980; Decree-Law 23140 of July 9, 1980.

224. Release of April 1980.

225. Decree-Law 22832 of December 26, 1980.

226. Legislative Decree 6 of December 30, 1980.

Up until the 1990 taxable year, oil companies owned by nationals may reinvest up to 90 % of profits tax free and capitalize them tax free. Oil companies qualify for the tax credit for promoted investments granted to all taxpayers.²²⁷ All taxpayers may claim a tax credit for promoted investments. While investments may be claimed as a credit up to five years after the profits are obtained, any reduction of capital within three years after the tax-free increase will forfeit the tax benefit. Congress has revised the rules for the determination of taxable income of companies engaged in activities related to the exploitation of hydrocarbons.

Reinvestment incentives apply to any taxpayer, whether domestic or foreign-owned, and have been extended until the 1999 taxable year. Investment tax credits are allowed to any taxpayer for investments in national or foreign-owned oil companies.²²⁸ The carryover of the credit for investments exceeding the profits of the taxable year in which they are made has been shortened to the three subsequent years.

A substantial revision of taxation of mining profits was effected on January 1, 1980. The tax-free capitalization of earnings has been terminated, and the income tax progressive rate has been increased. Estimated tax payments are also governed by new rules. Mining companies are required to pay a progressive income tax on profits in excess of 100 million soles, which is determined by the ratio of cash flow to fixed investment. The rates ranging from 29 % to 55 % of that scale have been increased to 37.5 % and 65 %, respectively.

Exercising the power vested in it by the statute that ordered the monetary adjustment of fixed assets, the executive branch has fixed the rate of the tax to be imposed on the increase in value of assets at 6 %.²²⁹ The rate is 2 % for real estate, hotel and forestry companies. Detailed rules for computation of the adjusted value are set forth. The increase in value for 1980 is to be included in computing net worth tax of enterprises.

Regardless of the fiscal year, depreciation allowances are to be computed from January 1, 1981 on the basis of the adjusted value of the assets.²³⁰ Mining, oil and public utility companies are not re-

227. Decree-Law 22862 of January 15, 1980.

228. Law 23231 of December 26, 1980.

229. Decree-Law 22958 of March 26, 1980.

230. Supreme Decree 251-81-EF of December 5, 1980.

quired to adjust the value of their assets. Pursuant to the present decree, the offsetting of net operating losses by the increase in value of the assets does not preclude a taxpayer's right to set off losses for income tax purposes, provided that the losses are recovered in future years and such recovery is capitalized.

The tax on exports of fish flour and fish oil, which was regarded as advanced income tax, has been repealed. In its stead, producers of such products shall pay estimated income tax according to the general rules provided by the Income Tax Law.²³¹

The exemption from income tax granted until December 31, 1980 for interest from certain savings accounts and certificates has been extended to December 31, 1986.²³² The extension applies to foreign currency savings certificates, term deposits in commercial banks, bonds of financial institutions, and to foreign currency repatriated by resident persons.

Contrary to the position taken by the tax authorities, the Tax Court has held that the income tax withheld on royalties remitted abroad is final, although since 1969 the rate has been progressive. Therefore, no adjustment of the amount of tax based on the aggregate amount paid throughout the taxable year is necessary. The holding must be followed by the tax authorities.²³³

In an effort to alleviate the burden created by indirect taxes, certain rates of the tax on sales and services have been reduced, as well as that of excise taxes on tobacco, cosmetics and soft drinks. The tax cut is to be reflected in prices charged consumers for such products.²³⁴ Domestic sales and imports of certain goods will be subject to a 36% rate. Several products have been included in the list of products benefiting from lower sales tax rates. The single tax on light tobacco has been changed to 10% for hand-made cigars. The single tax on soft drinks has decreased from 16% to 14%. The 20% excise tax on cosmetics has been reduced to 16% by the present statute. The road tax on motor vehicles using gasoline shall be levied as a percentage of the price of gasoline sold. The road tax on all other motor vehicles shall be double that in force during 1980.²³⁵ A new tax has

231. Decree-Law 23016 of April 30, 1980.

232. Decree-Law 22891 of February 19, 1980.

233. Resolution 16253 of December 4, 1980.

234. Decree-Law 22932 of March 19, 1980.

235. Legislative Decree 8 of December 30, 1980.

been imposed on the importation or first sale of motor vehicles.²³⁶ The tax is provided for in the law which regulates the automobile assembly industry. Importers or persons acquiring vehicles for their own use are liable for the tax.

Rates and other provisions of the single tax on unimproved urban parcels of land have been revised. The tax is to be increased annually from 0.50% of the appraisal value in the first year to 12% by the seventh year of the holding period.²³⁷ Where land is held for development, the rate is 0.60% of the appraisal value and increases to a maximum of 24% by the seventh year of the holding period. The minimum rates are higher if the same owner has two to four parcels, and it is even higher if the same owner holds five or more parcels simultaneously. Exercising the power vested in it by law, the executive branch has increased the rates of the stamp tax by 50%.²³⁸ The executive branch may increase the rates of the stamp tax whenever the cost of manufacturing sealed paper increases.

Exercising the authority granted it by law, the executive branch issued a new import duty tariff.²³⁹ Effective January 1, 1980, sales and service tax levied on imports have been reduced in view of the new duties levied thereon.²⁴⁰ The list of machinery and parts, used by assembly industries, subject to the import duty tariff has been revised.²⁴¹

The temporary 10% ad valorem tax on the CIF value of all imports not expressly exempted has been terminated. Goods exempt from the 10% tax on sea freight and from the additional 1% ad valorem import duty are those shown in revised lists.²⁴² Pharmaceutical products have been exempted from the single 10% ad valorem duty. Numerous imported goods have been exempted from the 10% tax on sea freight charges; others have been exempted from the additional 1% import duty.²⁴³ Items of the import duty tariff relating to petrochemicals have been revised and others have been added. The

236. Supreme Decree 132-80-EF of June 12, 1980.

237. Decree-Law 23069 of May 28, 1980.

238. Supreme Decree 190-79-EF of December 31, 1979.

239. Supreme Decree 116-79-EF of August 14, 1979 as amended by Supreme Decree 003-80-EF of January 8, 1980.

240. Decree-Law 22824 of December 26, 1979.

241. Supreme Decree 038-80-EF of February 25, 1980.

242. Decree-Law 22960 of March 26, 1980; Supreme Decree 049-80-EF of March 19, 1980.

243. Decree-Law 22965 of March 26, 1980; Supreme Decrees 067-80-EF and 068-80-EF, both of April 8, 1980.

1% ad valorem tax created by the law encouraging non-traditional exports will apply to the items now added, unless they are exempted by an earlier statute.²⁴⁴ Beginning September 13, 1980, the maximum import duty rate may not exceed 60%, ad valorem on the CIF price.²⁴⁵ In view of the ceiling set forth by the present supreme decree, all duties, in excess of 60%, imposed by the tariff are automatically reduced to 60%.

With regard to tax incentives for economic development, a variety of industries have been favored. Until the year 2010, enterprises entering into contracts for the exploitation of radioactive materials will enjoy the tax benefits granted to mining companies, as well as exemption from import duties. Furthermore, sales of radioactive materials extracted by them will be free from the special 15% sales tax or from the 15% tax on exports. Contractors shall pay a royalty to be fixed in each contract, as a share to the State in the exploitation of a deposit. Nonresident contractors may remit their share abroad without regard to the amount of their registered foreign capital.²⁴⁶ Contractors are required to convey to the government all information and technology applicable to mining radioactive materials.

Under Congress' authorization, the executive branch has issued a legislative decree encouraging farming and processing of foodstuffs through various tax incentives which will prevail until December 31, 1999. Among such incentives are tax-free reinvestments, 50% income tax exemption, 90% reduction of net worth tax, reduction of the tax on revaluation of fixed assets and of payroll taxes, 100% exemption from real property transfer tax and tax-free profits invested in eligible industries. Larger benefits apply in the Jungle Region. Sales tax exemptions and Jungle Region incentives have been extended to December 31, 1999, if the beneficiary qualifies under the new law.²⁴⁷ Reinvestments allowed in the present decree in excess of the profits of the taxable year in which they are made, may be applied against the profits of up to five years, including the year of investment. Any taxpayer may invest profits in farming activities, but the beneficiary enterprise waives the exemption from income tax on its profits.

Statutory provisions affecting gold mining in the Jungle Region have been amended with a view to maximizing exploitation of de-

244. Supreme Decree 104-80-EF of May 15, 1980.

245. Supreme Decree 210-80-EF of September 11, 1980.

246. Decree-Law 23112 of July 9, 1980.

247. Legislative Decree 2 of November 17, 1980.

posits.²⁴⁸ These provisions require a minimum investment, a minimum annual production and a maximum of hectares under exploration, in order to qualify for tax incentives.

In order to aid tourist activities, lodging and other tourist services will be subject to a new tax lower than the present tax payable by such services under the Sales and Services Tax Law. The latter will no longer apply to lodging and other tourist services such as restaurants. The new tax applies on the amount charged for services, at a rate ranging from 1 % to 6 % depending on the location and classification of the establishment. It is governed by the sales tax procedural rules.²⁴⁹ First and second category establishments located in Lima and Callao provinces shall pay 6 % and 3 % tax, respectively. First and second category establishments located elsewhere in the country shall pay 3 % and 1 % tax, respectively.

To encourage domestic marketing of fish products, fish trading companies are allowed to reinvest, free from income tax, up to 78 % of their reinvestable income.²⁵⁰ Peruvian citizens who have been abroad five years or longer may return to settle in Peru, importing free from duties and sales tax, their household goods and one automobile per family unit.²⁵¹ The automobile must have been registered in the beneficiary's name for at least six months prior to arrival. These tax privileges were in effect until December 31, 1981.

An important measure was passed to offset inflation. To minimize the impact of the high cost of living, from January 1, 1981 all workers in non-governmental activities will receive a fixed monthly bonus. The amount of the bonus is fixed at 6,000 soles per month for workers covered by collective bargaining agreements; otherwise the bonus is higher. The bonus is to be treated as ordinary salary and is subject to social security contributions.²⁵² The bonus does not apply to workers being compensated in foreign currency, to temporary workers, nor to those entitled to automatic adjustment of their remuneration. Retirement pensions are to be adjusted by the Social Security Institute and by the Ministry of Labor, in harmony with the provisions of the present decree.

There have been several tax administration changes worth noting. Important changes on issuance of advance rulings have been

248. Decree-Law 22970 of April 8, 1980.

249. Decree-Law 23015 of April 30, 1980.

250. Decree-Law 23042 of May 14, 1980.

251. Legislative Decree 13 of December 30, 1980.

252. Supreme Decree 018-80-TR of December 30, 1980.

made in the Tax Code. At the written request of associations which represent economic sectors, the General Tax Bureau may issue rulings construing tax provisions. No consultation dealing with the concrete situation of a taxpayer will be allowed. Changes of case law passed by the Tax Court are to be published in *El Peruano* and will be obligatory thereafter.²⁵³ Where a taxpayer has obtained an oral ruling, and such ruling is reversed by the same authority or by the General Tax Bureau in a ruling published in *El Peruano*, the taxpayer is required to follow the latter ruling within fifteen days from its publication. However, those taxpayers who have changed position on reliance of the earlier ruling will be exempt from tax liability.

Legal entities are required to pay estimated income tax pursuant to new rules. The basis is the tax levied in the preceding taxable year, rather than the amount of tax effectively paid after reinvestment credits and workers' profit-sharing.²⁵⁴ Legal entities must pay as estimated tax for the months of January and February, 10% of the tax paid in the second immediately preceding year. Such amount is to be adjusted in March, since the monthly payments are to be equivalent to 10% of the tax paid in the immediately preceding year. Legal entities which have a fiscal year which does not coincide with the calendar year, shall apply the rules to the months following their closing date. Since the estimated payments amount to 120% of the tax levied in the preceding year, although not actually paid, an excess of estimated tax payments may become unusable for certain taxpayers. Perhaps to prevent such result, under legislation fixing the national budget for 1981, new rules on estimated tax to be paid by legal entities have been established. The same statute foregoes penalties for income tax payers who pay a certain percentage of the tax already paid in taxable years open to audit.²⁵⁵ Legal entities may elect to pay estimated taxes at 12.5% of the tax liability for the preceding fiscal year, or at 2% of the gross receipts attributable to each month in which estimated tax is due.

Where taxes to be refunded were paid in foreign currency or in national currency based on foreign currency, the refund is to be made in national currency at the exchange rate utilized in converting the overpayment.²⁵⁶ Under the Income Tax Law, taxpayers receiving

253. Decree-Law 23207 of July 19, 1980.

254. Supreme Decree 029-80-EF of February 7, 1980 implementing Decree-Law 22842 of December 1979.

255. Law 23233 of December 31, 1980.

256. Decree-Law 23051 of May 14, 1980.

income in United States dollars or other currencies as determined by the Ministry of Economy and Finances are required to pay the tax in that same currency. Income tax refunds shall include interest from January 1 of the year following the date when the excess payment is determined in the tax return. The new rule applies to overpayments made from the 1980 taxable year.²⁵⁷ The rate of interest shall be that fixed by the Reserve Central Bank for rediscount transactions and financial institutions. In the area of special situations, Peru has approved Decision 120 of the Cartagena Commission, establishing a favorable import duty treatment for products of the automotive industry.²⁵⁸

URUGUAY

Among the numerous changes that took place in the tax policy area, the single duty tariff for the year 1980 has been introduced. It applies from January 13, 1980. The current duties, surcharges and customs fees on importation are consolidated into a single figure which is reduced by 16% of the difference between such figure and the basic 35% duty.²⁵⁹ Current customs duties and charges in the aggregate are to be gradually reduced to 35% by January 1, 1985.

The law which created the single import tax at a 25% rate has been amended. The 25% rate has been increased to 35%, and the power of the executive branch to increase or reduce such rate has been revised.²⁶⁰ The executive branch may increase the 35% rate up to a 110% rate or reduce it to zero.

Beginning with the taxable year corresponding to fiscal years beginning on or after January 1, 1979, persons and entities subject to the tax on income from industry and commerce may claim a deduction for maintenance of working capital. The deduction must be capitalized. It amounts to 25% of the tax value of inventory at the beginning of the fiscal year but not exceeding 15% of the tax value of inventory at the close of the fiscal year.²⁶¹ The deduction is further limited by the book profit for the year involved and the adjusted taxable income. Any balance left by application of the limits described above may not be carried over to any subsequent year.

257. Decree-Law 23074 of May 28, 1980.

258. Decree-Law 23048 of May 16, 1980.

259. Decree 787 of December 31, 1979.

260. Law 14988 of January 7, 1980.

261. Decree 73 of February 6, 1980.

In accordance with the power vested in it by the Added-Value Tax Law, the executive branch has raised, from January 1, 1980, the basic rate to 18% while repealing social security contributions to the housing fund and family assistance fund, and reducing by 2% the employer's contribution to the retirement fund for employees in industry and commerce.²⁶² The 10% basic import duty applicable to capital assets has been extended to goods which may comprise others, provided they are not manufactured within the country. However, if such goods cannot operate independently, the basic import duty rate shall be 35%.²⁶³ Without prejudice to the treatment granted under international agreements, replacement parts imported with capital assets are to pay the same duty as the main asset, up to 5% of the CIF value of such asset. The excess is taxed under general rules.

Legislation authorizing the executive branch to impose countervailing duties has been passed. They shall apply to imports being dumped in the country or being subsidized by the government of the country of origin.²⁶⁴ The new law defines dumping and subsidy and provides for the procedure to determine their existence when a complaint has been filed. False complaints will be punished by a fine of up to 500% of the value of the goods covered by the complaint.

The net worth tax has been lowered. Individuals and undivided estates shall pay the net worth tax for the taxable year 1979 reduced by 30%.²⁶⁵

Two decrees reducing the import duty on raw sugar and on paints have been passed. The total duty shall be 65% ad valorem, comprised of a 40% surcharge, 20% single custom tax, 1% stevedoring fee and 4% consular fee.²⁶⁶ The global 65% import duty on paints and varnishes has been increased to 75% ad valorem comprised of a 55% surcharge, 15% single custom tax, 1% stevedoring fee and 4% consular fee.²⁶⁷

In the area of promotion of economic development, duty breaks have been granted for certain industries. From June 27, 1980, basic raw materials imported by the textile industry are exempt from the basic import duty, consular fees and stevedoring fee.²⁶⁸ The single

262. Decree 60 of January 30, 1980.

263. Decree 147 of March 12, 1980.

264. Law 15025 of June 17, 1980.

265. Decree 275 of May 14, 1980.

266. Decrees 350 and 351, both of June 18, 1980.

267. Decree 648 of December 10, 1980.

268. Decree 379 of June 27, 1980.

import duty for the year 1980 has been fixed at 10% for pre-fabricated buildings, irrespective of the material used to manufacture them.²⁶⁹ However, that benefit has been limited to houses meeting the specifications to be established by the Mortgage Bank of Uruguay and to certain components. Appliances and furniture are not entitled to the 10% duty.²⁷⁰ Pre-fabricated buildings which fail to meet the specifications set forth by the Bank are subject to a global duty of 85% or 35% (official publication is illegible).

With respect to social security developments, two decrees introducing changes in the social security system have been passed. One requires employers to pay over contributions within the time limits to be fixed by the Social Security General Bureau, using a return to determine the amounts payable. The other decree sets forth rules for the affiliation of partners of general partnerships, limited liability companies and limited partnerships.²⁷¹ The Bureau is to fix deadlines for paying over contributions within the month following that in which the taxable event occurred. Partners are granted affiliation privileges provided that they perform services for the company, even if such services are paid separately from their share in the company profits.

Exercising the authority vested in it by law, the executive branch has fixed the maximum percentage of salaries that may be required for employers and employees of commercial and industrial establishments as contribution to the social security fund. No contributions accrued after June 1, 1980 shall exceed 10% of payroll or salary received.²⁷²

VENEZUELA

No tax policy changes took place during the 1980 calendar year. The only change introduced was shortly thereafter repealed. It affected the import duty tariff. Several items of the Import Duty Tariff approved in 1974 and related to tractors, trucks and certain motor vehicles for specific use had been subject to revised duties since April 25, 1980.²⁷³ The revision was terminated by October 8, 1980.²⁷⁴

269. Decree 425 of August 6, 1980.

270. Decree 649 of December 10, 1980.

271. Decree 196 of April 9, 1980; Decree 210 of April 16, 1980.

272. Decree 367 of June 25, 1980.

273. Decree 579 of April 24, 1980.

274. Decree 792 of October 6, 1980.

Promotion of economic development features several measures. Exercising the power granted it by the Income Tax Law, the executive branch has exempted from income tax interest from loans within certain maturities made to farmers, forestry enterprises and fisheries. Such exemption has been superseded by a similar system imposing different terms and conditions, and which excludes interest derived by nonresidents taxed in their home country despite the exemption.²⁷⁵ Similarly, the repealed statute, Decree No. 551, applies to loans for investment in farming, forestry or fishing if the term is five years or longer. It applies to loans for planting if the term is two years or shorter. It applies to loans for acquisition of machinery if the term is two years or longer but not over five years. The limit of the interest rate allowing commercial banks to make the exemption operative has been raised from 8.25 % to 10 % per year. The system just described was later superseded by a similar system imposing different terms and conditions.²⁷⁶ The new decree provides that those nonresident persons entitled to the exemption must produce Spanish and original language copies of the tax law, so that the exemption can be granted to the extent that it results in a real benefit for the taxpayer.

Interest from deposits in savings and loan associations has been granted broader exemption from income tax, by relaxing limits and provisions.²⁷⁷ Superseding an earlier decree, the executive branch has declared exempt from income tax 100 % of the interest derived from certain term deposits, savings deposits and mortgage notes, and 50 % of the interest derived from corporate bonds publicly offered. The benefit shall be in effect for five years beginning on the date of promulgation of the new decree.²⁷⁸

For seven years, from April 24, 1980, persons exploiting certain salt mines and processing the salt will be exempt from 58 % of the income tax levied on net income from such activities.²⁷⁹ The tax benefit applies only to exploitation of the National Salt Mines and is not available to persons or entities separately engaged in salt mining or processing.

In the tax administration field, the changes affected payment of estimated tax and tax returns. Legal entities are required to file in-

275. Decree 551 of March 20, 1980.

276. Decree 895 of December 10, 1980.

277. Decree 562 of March 31, 1980.

278. Decree 900 of December 12, 1980.

279. Decree 585 of April 24, 1980.

come tax returns and to assess their tax liability in the manner prescribed in a treasury resolution. They also must pay estimated tax in six installments, except mining and oil companies, which are to make twelve monthly payments of estimated tax. The new rules were to enter into effect on January 1, 1981.²⁸⁰ From January 1, 1981, legal entities engaged in mining, oil and related activities are required to pay estimated tax in the current taxable year pursuant to new rules. Such payment must be 96% of the estimated tax liability for the current year.²⁸¹ Gross income from exports is to be determined by multiplying the volume projected for exporting according to sales programs approved by the Ministry of Mines and Hydrocarbons, by the values fixed by the executive branch. The returns thus filed may not be amended, except to increase the tax payable. This rule notwithstanding, the Ministry of the Treasury may authorize filing of amended returns for a lesser tax liability in the event of special circumstances properly supported. Legal entities and individuals deriving net income from non-oil-related activities and not subject to withholding, in excess of 100,000 bolivars in the preceding taxable year are required to pay estimated tax for similar income in the current year, in an amount equal to at least 75% of the estimated tax liability.²⁸² The estimated investments entitled to tax credits may not exceed 80% of the investments made in the preceding taxable year.

Certain developments of interest to foreigners should be heralded. Profits in excess of 7% of the registered capital may be reinvested in the conditions set forth by a treasury resolution. The Superintendency of Foreign Investment may grant authorization to register such profits as reinvested foreign capital if the funds are used to finance economic activities regarded by the executive branch as convenient for the development of the country.²⁸³ Profits in excess of 7% of the registered capital may not be automatically reinvested. The present resolution facilitates reinvestment of excess profits by stating concrete guidelines to be followed by investors, making the Superintendency's power to authorize it less discretionary.

Seven laws approving tax treaties have been passed. Four of the treaties are intended to avoid double taxation of enterprises engaged in maritime and air transportation. They were signed with Holland,

280. Treasury Resolution 196 of May 23, 1980.

281. Decree 898 of December 10, 1980.

282. Decree 899 of December 10, 1980.

283. Resolution 324 of September 11, 1980.

Great Britain and Northern Ireland, Germany and France. The other three are intended to avoid double taxation of airlines; they were signed with Brazil, Italy and Portugal.²⁸⁴ All the treaties grant total exemption from taxes levied on income, gross receipts and capital gains. They apply retroactively with respect to each country, as follows: Holland, January 1, 1978; Brazil, January 1, 1979; Great Britain and Northern Ireland, January 1, 1977; Germany, January 1, 1974; France, January 1, 1977; Italy, January 1, 1974; and Portugal, January 1, 1976.

284. Law of August 18, 1980.